

### **TITLE 3 Personnel**

This title was most recently updated by the following ordinance:

<b>Ordinance No.</b>	<b>Subject</b>	<b>Effective Date</b>	<b>Code Site</b>
5346	Certification of Eligibles for Fire Department	March 31, 2005	Section 3.16.200

**TITLE 3**  
**PERSONNEL**

**Chapter: 3.04 Personnel and Salary  
Classification**  
**Chapter: 3.08 Employee Benefits**

**Chapter: 3.12 Employer-Employee Relations**  
**Chapter: 3.16 Civil Service System**

**Chapter 3.04**

**PERSONNEL AND SALARY CLASSIFICATION**

**Sections:**

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**3.04.010 Short Title.**

This chapter shall be known as the "Basic Salary Ordinance". (Ord. 2906 §1, 1963.)

**3.04.020 Definition of Terms.**

The words and terms defined in this section shall have the following meanings in this chapter and in any other ordinance classifying and fixing the salaries and compensation or authorizing the employment of personnel in any department or office of the City.

(1) "City service" or "service of the City" means all positions in all departments as herein defined, that are subject to control and regulation by the City Council.

(2) "Classified service" means all positions in the City service except those specifically placed in the exempt service.

(3) "Exempt service" means all positions of elective and appointive officials specifically designated by the City Council to be exempt from the classification plan.

(4) "Class" or "class of positions" means a definitely recognized kind of employment in the City service designated to embrace all positions having duties and responsibilities sufficiently similar so that the same requirements as to education, experience, knowledge and ability may be demanded of incumbents and so the same schedule of compensation may be made to apply with equity.

(5) "Title", "class title" or "title of class" means the designation given to or name applied to a class or to each position allocated to the class and to the legally appointed incumbent of each position allocated to the class. Its meaning is set forth in the corresponding definition and the class specification, and it is always to be used and understood in that sense, even though it may, previously have had a broader, narrower or different significance.

(6) "Position" means a group of current duties and responsibilities assigned or delegated by competent authority, requiring the full or part-time services of one (1) person.

(7) "Employee" means a person legally occupying a position in the City service.

(8) "Allocation" means the official determination of the class in which a position shall be deemed to exist and the assignment of an individual position to an appropriate class.

(9) "Reallocation" means a reassignment or change in allocation of any individual position by raising it to a higher class, reducing it to a lower class, or moving it to another class at the same level on the basis of substantial changes in the kind, difficulty or responsibility of duties performed in such a position.

(10) "Compensation" means the salary, wages, allowance, and all other forms of valuable consideration earned by or paid to any employee by reason of service in any position, but does not include any allowance authorized and incurred as incidents to employment.

(11) "Continuous service" means employment with the City without break or interruption; in computing continuous service for the purposes of this chapter, neither military leaves nor leaves of absence on account of illness, whether with or without pay, shall be construed as a break in employment or service. Other absences aggregating in excess of ninety (90) days in any period of twelve (12) months, including layoffs on account of lack of work, lack of funds, or abolishment of positions shall be construed as breaking "continuous service".

(12) "Anniversary date" means the existing anniversary date for present officers and employees, and the first date of the month following date of employment of subsequent officers and employees unless the employment begins on the first day of the month in which case day of employment applies.

(13) "Base pay" means the minimum compensation regularly payable to an employee as set forth in the current salary resolution or ordinance at the time that added compensation is paid under this chapter, but shall not include overtime, expenses, hazardous duty pay (motorcycle), service betterment pay, or any other allowance added to the base pay. (Ord. 3654 §1, 1974; Ord. 2906 §2, 1963.)

### **3.04.030 Qualifications of Employees - Advancement for Extraordinary Qualifications.**

No person shall be hereafter employed in or appointed to any position requiring full-time or part-time service, and which position is included in the classified plan for which a class specification exists establishing desirable qualifications, unless said person possesses in full the desirable qualifications prescribed for that class; provided, however, if qualified persons cannot be recruited, the City Administrator, with the approval of the Council, shall authorize the appointment of persons having less than the desirable qualifications.

In the event an employee entering upon City employment is found to possess extraordinary qualifications for a position through former training and/or experience, the City Administrator with the approval of the Council, may authorize the employment at any step of the appropriate salary range above Step "A". In such event, the employee shall serve a probationary period as elsewhere provided but he shall not succeed to the next higher step in the pay range until he has completed one (1) continuous year of service in the step at which he entered, and upon written recommendation of the department head to the City Administrator as provided in Section 3.04.070(c); provided, that department heads may at any time be advanced to a step other than the next succeeding step upon recommendation of the City Administrator and concurrence by the City Council, and provided further that in the event the City Administrator fails or refuses to make such recommendation, the Council may, by four-fifths (4/5) vote, advance such department head to a step other than such next succeeding step, and this chapter shall be deemed to be retroactive in its operation to January 1, 1965. (Ord. 3849, 1976; Ord. 3030, 1965; Ord. 2906, 1963.)

### **3.04.040 Classification of Positions.**

(a) The provisions of this chapter shall apply to both the unclassified and classified services except as the unclassified service is exempt by the Charter.

(b) The classification of positions for the purposes of this chapter shall be as contained in the official book of class specifications. The official book of specifications shall be maintained by the City Administrator or Personnel Officer.

(c) The classification of positions may be amended by the addition, division, consolidation or abolishment of classes on recommendation of the City Administrator and adoption by the City Council. (Ord. 2906 §4, 1963.)

### **3.04.050 Allocation of Positions.**

Each position shall be allocated to its appropriate class on the basis of duties and responsibilities. The present allocation of positions may be changed by the City Administrator provided the proposed change conforms with this chapter, with the established classification plan, and with the approved budget. (Ord. 2906 §5, 1963.)

### **3.04.055 Trainee-Level Positions.**

Provision is hereby made for trainee-level positions in the unclassified service of the City. Such positions may be utilized temporarily only in lieu of filling regular authorized full-time and/or permanent part-time vacancies in either the classified or the unclassified service. Trainee appointments may be made upon the recommendation of the Personnel Director and approval of the City Administrator for periods of one (1) year or less.

Positions may be filled at the trainee level only by persons who possess or will gain during the period of their appointment the minimum qualifications for regular appointment. Such trainees must, however, qualify for regular or permanent part-time employment as provided elsewhere in this chapter. A trainee who fails to so qualify will be terminated upon or before the expiration of the appointment.

The intent of the trainee provision is to provide entry level employment opportunities in the City service in furtherance of positive employee development and affirmative action.

Trainee-level positions shall be compensated at a rate not to exceed eighty percent (80%) of the wage rate established by ordinance or resolution for the appropriate regular position. Trainee responsibilities shall be those outlined in substance on the appropriate regular position job descriptions recognizing, however, that employee development and skills acquisition are involved. (Ord. 3780, 1975.)

### **3.04.060 Use of Class Titles.**

The title of the class to which any position is allocated shall be used in all official personnel records and in all official personnel transactions of the City. (Ord. 2906 §6, 1963.)

### **3.04.070 Application of Compensation Plan to Positions.**

(a) The salaries or rates of compensation prescribed are fixed on the basis of full-time service in full-time positions, unless otherwise designated.

(b) The rates of pay prescribed shall be deemed to include pay in every form, except for necessary expenses authorized and incurred incident to employment, or except as herein provided.

(c) The letters A, B, C, D and E, respectively, denote the various steps in the pay range. The entrance step shall be A, except as provided in Section 3.04.030. Advancement to the second higher step above the entrance step shall be made upon successful completion of a probationary period of six (6) months, and on the basis of a written recommendation by the department head to the City Administrator. Thereafter, advancement to higher salary range steps shall be made on the basis of a written recommendation by the department head to the City Administrator, following the completion of a year of service in the lower step of the range.

(d) Where a salary range for a given class or for several classes is revised upward or downward, the incumbents of positions in classes affected shall have their existing salary adjusted to the same relative step in the new salary range. (Ord. 2906 §7, 1963.)

### **3.04.080 Initial Adjustments to Compensation Plan.**

Subject to the provisions of this chapter, the salary ranges set out in this chapter shall be applicable to all positions allocated to classes listed in this chapter. From and after the date the ordinance codified in this chapter becomes effective, each employee in the City service shall be paid the salary or compensation for services rendered in behalf of the City in accordance with the salary range prescribed for the class of position to which his position is allocated.

Persons who are employees on the effective date of the ordinance codified in this chapter shall be allocated to the class and position deemed proper and shall be placed at a salary step in the applicable salary range, all in accordance with a resolution of the City Council. (Ord. 2906 §8, 1963.)

### **3.04.100 Salary Rate - Promotion.**

In case of the promotion of any employee in the City service to a position in a class with a higher salary range, such employee shall be entitled to receive the rate of compensation in the entrance step of the class to which he has been promoted, provided that in the event such employee possesses extraordinary qualifications through long tenure and previous experience in his department, the City Administrator may, with the approval of the City Council, authorize the promotion of such employee to be at any step other than such entrance step. In cases where the salary range overlaps, promotion shall be effected at the next higher step in the range of the new class. (Ord. 2913 §1(part), 1963; Ord. 2906 §9(a), 1963.)

### **3.04.110 Salary Rate - Demotion.**

In the case of the demotion of any employee in the City service to a class with a lower salary range, such employee shall be entitled to retain the salary step in the lower range corresponding to that which he was receiving in the higher class before such demotion; in such cases the employee shall retain his original anniversary date. (Ord. 2913 §1(part), 1963; Ord. 2906 §9(b), 1963.)

#### **3.04.115 Effective Date of Step Increase, Promotion, Demotion and Reclassification.**

All step increases, promotions, demotions and reclassifications and the salary rates therefor shall become effective on the first day of the first pay period following the completion date of the personnel action by the appointing power. (Ord. 3866, 1976.)

#### **3.04.120 Salary Rate - Transfer.**

In the case of the transfer of any employee from one position to another in the same class, or to another class to which the same salary range is applicable, the employee shall remain at the same salary step and shall retain his original anniversary date. (Ord. 2913 §1(part), 1963; Ord. 2906 §9(c), 1963.)

#### **3.04.130 Fire and Police Officers Acting in Higher Rank.**

At any time the City Administrator, upon the recommendation of the department head and Personnel Director, may order any member of the Police or Fire Department holding a lower rank therein to serve as an acting officer of a higher rank and may order that he be paid the compensation of such higher rank which duties he is to perform, and thereupon he shall be paid the compensation of such higher officer or rank so long as he performs duties as such; provided, however, that such appointment as an acting higher officer can be made only when a vacancy exists in the higher position or when the person holding the higher rank is absent on extended leave due to illness or occupational accident or injury. While acting in such higher office, all of the aforementioned members of the Police Department or Fire Department shall have the duties and shall exercise the powers of the office which they are designated to fill as acting officer. (Ord. 3833, 1976.)

#### **3.04.140 Incumbents Receiving Compensation in Excess of the Maximum.**

The enactment of the ordinance codified in this chapter shall not affect the compensation of those employees who at the time the ordinance codified in this chapter is adopted are receiving in excess of the maximum step in the range for their respective classes, and such employees may continue to receive such compensation. (Ord. 2906 §10, 1963.)

#### **3.04.150 Cumulation of Service in One Class of Position.**

Whenever an employee accepts work under a different class of position or in exempt series in the City service, the character and nature of which work is similar and the responsibilities are equal or superior to the work such employee has been performing, and later returns to his former position, his term of employment under such different class of position shall apply on and be added to his term of service in the former class upon his return to same, provided his employment in the City service has been continuous from the date on which the employee accepts work in such different class. (Ord. 2906 §11, 1963.)

#### **3.04.160 Temporary Employment.**

Temporary employment shall mean employment of limited duration or seasonal work such that said employment shall not exceed one thousand forty hours (1,040 hours) in any twelve (12) month period starting on the first day of employment. Hours shall be computed on the basis of all employment regardless of the number of different departments employing such employee. Temporary employees shall be in the unclassified service and may work either full-time or part-time not to exceed the hours limitation provided above. The actual compensation for temporary employees shall be determined as provided in the City's Position and Salary Control Resolution and by the relation that the actual number of hours of service bears to the number of hours required in full-time employment in each class or position.

The City Administrator, upon the recommendation of the Department Head and the Personnel Director, may waive the 1,040 hour limitation in the case of specific projects of known duration.

Temporary employees shall not be entitled to compensation or benefits except as provided herein or as mandated by State or Federal laws. (Ord. 3925 §1, 1977; Ord. 3267, 1968.)

#### **3.04.161 Permanent/Part-Time Employees - Unclassified.**

A permanent/part-time employee category in the unclassified service is established. Such employees shall be paid on an hourly basis. A permanent/part-time employee shall be defined as one who works more than twenty (20), but not more than thirty (30) hours in any calendar week. Such permanent/part-time employees are eligible for step raises under the same terms and conditions as apply to permanent/full-time employees except that the period of employment required for promotion from Step A to Step B shall be the number of hours equivalent to six (6) months of full-time employment, and for subsequent step promotions to the number of hours equivalent to one (1) year of full-time employment. In addition, such an employee shall be entitled to and shall receive, regardless of the number of hours worked per week between twenty (20) and thirty (30) hours, sixty-five percent (65%) of full-time supplemental benefits in the following categories:

- (a) Vacations;
- (b) Holidays;
- (c) Sick leave;
- (d) Bereavement leave; and
- (e) Military leave.

Further, such employees shall be eligible for pension benefits and shall contribute to the pension fund as provided by the State Public Employee's Retirement System. (Ord. 3493 §2, 1971.)

#### **3.04.190 Payment Period.**

All salaries and compensation herein provided shall be paid biweekly unless otherwise provided by ordinance, provided that employees who may be hired on occasional or emergency work shall be entitled to receive their salaries or wages on the completion of the work for which they were hired. (Ord. 3866, 1976.)

#### **3.04.200 Filling Vacancies.**

In the event a vacancy occurs in any position or class created by this chapter, the City Administrator shall fill the vacancy from qualified persons in the City employ, but if no persons in the City employ are qualified, then he may fill such position by persons outside the City employ. (Ord. 2906 §16, 1963.)

#### **3.04.210 Compensation Plan, Objectives.**

In keeping with the philosophy that the City should be a model employer and provide good salaries and benefits for all employees; and in order to provide understandable methods of salary setting which will result in compensation reasonable to employees, management and taxpayers, the salary administration policies and procedures for the City shall be as provided in Sections 3.04.220 to 3.04.240, inclusive of this chapter. (Ord. 3357 §1, 1969.)

#### **3.04.220 Compensation, Policies.**

The compensation plan of the City shall be established and maintained so as to:

- (a) Enable the City to attract and retain competent employees;
- (b) Provide for equitable monetary recognition of differences in duties and responsibilities between classes of positions; and
- (c) Provide logical relationships to salaries paid for comparable work in appropriate areas in both public and private employment. (Ord. 3357 §2, 1969.)

#### **3.04.230 Compensation, Procedures.**

The salary schedules and rates of compensation paid to City officers and employees shall be annually adjusted as hereinafter described:

(a) Management Employees: For the purposes herein outlined, Management shall be defined as City officers, department heads, and other Management Employees designated as such by the City Administrator, the total number of said employees not to exceed eight percent (8%) of the permanent, authorized work force as constituted at the time of the annual review set forth below.

The salaries of Management Employees shall be annually reviewed and adjusted on the basis of comparability with other public jurisdictions having departmental divisions of similar size and positions. In recommending salary adjustments to the Council, the City Administrator shall take into account cost-of-living indices, recruitment difficulties, staff organization, and responsibility.

Those employees designated as Management shall be exempt from career stability pay increases and overtime, stand-by and call-out pay.

Nothing contained herein shall be construed to mean that an employee of the City, herein designated as a Management Employee, who had been receiving career stability pay increases prior to the adoption of this ordinance, shall lose the amount of increase previously provided. Such amount of increase shall continue to be provided until the employee has received merit increases under this chapter at least equal to the career stability pay previously received.

(b) Police and Fire Employees: For the purpose of the provisions of this subsection (b), Fire employees shall consist of all persons duly and regularly appointed, other than those designated by the City Administrator as Management Employees, in the Fire Department whose primary duty is to prevent or extinguish fires in the City under whatever designation they may be described in any salary or position control resolution; and Police employees shall consist of all members of the Police Department appointed and sworn in as provided by law, other than those designated by the City Administrator as Management Employees, to perform the duties of a regular police officer of the City under whatever designation they may be described in any salary or position control resolution.

The salaries of the members of the Police and Fire Departments shall be reviewed and adjusted to be at least equal to the average rate for each comparable rank or position paid by the twenty (20) cities in California, the populations of which are nearest to that of the City as of January first preceding said adjustment and on file with the State Controller and known as the "Estimated Population" by the State Controller. Said survey shall be based on salaries in effect July fifteenth of each year and adjustments shall be retroactive to July first.

(c) Professional Attorneys: For the purposes of this paragraph, Professional Attorneys shall mean those employees appointed by the City Attorney as his or her deputies or assistants. The compensation of Professional Attorneys shall be annually reviewed and adjusted pursuant to the Professional Attorney Performance Evaluation and Compensation Plan approved by resolution of the City Council. Employees designated as Professional Attorneys shall be exempt from career stability pay increases and overtime, stand-by and call-out pay.

(d) General Employees: The salary or wage rates of those City employees, hereinafter referred to as "General Employees", not otherwise specified in subsections (a), (b) or (c) of this section, excluding elected officials, shall be adjusted in accordance with the provisions of Charter Section 1211.

At the time of the review specified in Charter Section 1211 (a), the City Administrator shall report to the City Council the percentage of change in the United States Consumer Price Index as provided in Charter Section 1211(c).

At the time of review, the City Administrator shall also report the average of the prevailing wage rates or salaries paid for comparable positions, which said position shall represent a number of City employees equal to at least 40 percent (40%) of the authorized permanent General Employee work force of the City of Santa Barbara as constituted at the time of review, in a representative sample of comparable public jurisdictions.

The City Administrator shall recommend to the City Council wage or salary adjustments for General Employees in addition to the adjustment specified in Section 1211 (c) of the City Charter, if the City Administrator determines that such adjustments are appropriate in order that salary or wage rates be brought into conformance with the prevailing salary or wage rates as paid by the jurisdictions surveyed in accordance with this subsection. (Ord. 4404, 1986; 3896, 1976; Ord. 3654 §2, 1974.)

#### **3.04.240 Management Compensation Plan.**

As provided under Section 1211 of the City Charter, a Management Compensation Plan is hereby created consisting of the application of those salary and fringe benefit policies provided by ordinance, resolution or administrative procedure to employees designated as "Management" pursuant to Section 3.04.230 of the Municipal Code.

The creation of this plan is intended to encourage the development of professional management skills in the City service, responsive to the policies of the City Council, the direction of the City Administrator and the needs of the citizenry. It is also intended to provide a reasonable degree of security to such employees. (Ord. 3654 §2, 1974.)

#### **3.04.250 Compensation Plan, Controlling Factors.**

Changes occur in the organization structure of the City and important changes occur in the demands for certain skills. Many of these changes take place gradually. Consideration shall be given to the following factors, among others, in determining the appropriateness of the compensation for a given classification:

- (1) Experience required;
- (2) Education and training required;
- (3) Complexity of work involved;
- (4) Responsibility assigned;
- (5) Public contacts involved;
- (6) Supervision received and exercised;
- (7) Special skills required;
- (8) Employee turn-over, recruitment difficulties, quality and quantity of job applicants;
- (9) The ability of the City to pay.

(Ord. 3357 §4, 1969; Ord. 3654 §2, 1974.)

#### **3.04.260 Career Stability Pay.**

This section shall be known as the "Career Stability Pay Plan Policy".

(a) Policy. In further keeping with the philosophy that the City should be a model employer and provide good salaries and benefits for all employees; and in order to encourage stability of employment in the City service; to reward long and faithful service; to provide continuing incentive; to compensate for lack of opportunity in certain "dead-end" positions; and to reduce the City's operating costs by minimizing or avoiding costs related to recruiting, examination and training of replacement personnel, the production costs related to the interruption of work during the period of replacement and training, and the costs related to reorganization when key personnel leave the service, it is hereby declared to be the policy of the City Council, that additional career stability pay, based upon the completion of satisfactory periods of service, shall be paid, commencing July 1, 1969, at each pay period to each eligible officer and employee, as set forth in this chapter.

(b) Career Stability Pay Established. Subject to the limitations contained in this chapter there shall be paid to each officer and employee (other than a seasonal or temporary employee) who has completed seven (7) years of satisfactory continuous service, a sum equal to two and one-half percent (2-1/2%) of the base pay of such employee earned after the satisfactory completion of such seven (7) year period of continuous service; to each officer or employee (other than a seasonal or temporary employee) who has completed twelve (12) years of satisfactory continuous service, a sum equal to an additional two and one-half percent (2-1/2%), making a total of five percent (5%) of the base pay of such officer or employee earned after the completion of such twelve (12) year period of continuous satisfactory service; and to each officer and employee (other than a seasonal or temporary employee) who has completed seventeen (17) years of continuous satisfactory service, a sum equal to an additional two and one-half percent (2-1/2%), making a total of seven and one-half percent (7-1/2%) of the base pay of such officer or employee earned after the completion of such seventeen (17) year period of continuous satisfactory service. All payments herein provided shall be effective at the beginning of the month following the eligible employee's completion of the prescribed number of years of aggregate satisfactory continuous standard of service.

Such additional payment shall be made at each time any installment of base pay is made to the eligible employee, and the amount of such additional payment shall be predicated upon the amount of base pay then paid; provided that if the base pay is reduced due to leave without pay or other cause, the amount of such additional payment shall be predicated upon the amount of base pay less any such reductions.

(c) Merit. It is also the intent of the City Council in enacting this chapter, that the payments herein provided for shall be construed and deemed to be a privilege earned by merit, as established by the employee's work performance, and not a right. If, at any time, the City Administrator shall determine any employee's or officer's service to be unsatisfactory, the City Administrator shall so certify to the Director of Finance and upon such certification the payments herein provided shall thereupon cease until such time as the City Administrator again certifies that such officer or employee has achieved a satisfactory standard of service.

(d) Right to Change. It is expressly declared that it is the intent of the City Council that no vested rights accrue to any payments made or which shall accrue under this chapter, and the conditions, amounts and/or times of such payments may be made, altered or eliminated entirely at any time by the decision of the City Council.

(e) Rules and Regulations. The City Administrator may establish such rules and regulations as he deems necessary to administer the provisions of this chapter. (Ord. 3654 §3, 1974.)



## Chapter 3.08

### EMPLOYEE BENEFITS

#### Sections:

3.08.010	Title.	3.08.220	Injury in the Course of Employment - Workers' Compensation - Payments from City.
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3.08.030	Work Week.	3.08.240	Leave of Absence Without Pay - Approval of City Administrator.
3.08.040	Overtime.	3.08.250	Computing Continuous Service.
3.08.050	Compensation for Overtime.	3.08.260	Transportation Allowance for Officials and Employees for Use of Privately Owned Vehicles.
3.08.060	Compensatory Time Off.	3.08.265	Reimbursement to Mayor and City Councilmembers for Local Use of Privately Owned Automotive Vehicles.
3.08.070	Authorization for Paid Overtime.	3.08.270	Presentment of Mileage Claims and Vouchers.
3.08.075	Stand-By Pay.	3.08.280	Authority to Use Automobile on City Business - City Administrator.
3.08.080	Vacation - Accrual and Computation.	3.08.290	Record of Mileage.
3.08.090	Vacation Scheduling.	3.08.300	Additional Compensation Not Allowed.
3.08.095	Jury Duty Leave.	3.08.310	Bonds Required by Persons Handling City Funds.
3.08.100	Procedure for Payment Upon Termination.	3.08.320	Amount of Bonds.
3.08.110	Holiday - Falling Within Vacation Time.	3.08.330	Excluded Personnel - Temporary, Part-Time, Seasonal.
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3.08.180	Sick Leave - Continuous Illness Extending Over Calendar Year.		
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3.08.200	Bereavement Leave.		
3.08.210	Leave of Absence - Schedule - Granting by City Administrator - Compensation.		

#### 3.08.010 Title.

This chapter shall be known as the "Employee Benefits Ordinance of the City of Santa Barbara". (Ord. 3655 §1, 1974.)

#### 3.08.020 Definitions.

(1) "Regular Salary or Wage" means all compensation provided an employee in accordance with the City's current Salary Resolution, and Sections 3.04.220 and 3.04.250 of the Municipal Code.

(2) "Overtime Work" means work in excess of the work week provided in §3.08.030.

(3) "Management Employees" means City officers, department heads, and other employees designated as management employees by the City Administrator pursuant to §3.04.230(a).

(4) "General Employees" means those full-time probationary and regular employees of the City in the constituent job classifications of the "general employees bargaining unit" as such unit is recognized by the City Administrator pursuant to §3.12.090 of the Municipal Code.

(5) "Police Department Employee" means those full-time probationary and regular employees in the constituent job classifications of the "Police Employees Bargaining Unit" as such unit is recognized by the City Administrator pursuant to §3.12.090 of the Municipal Code.

(6) "Fire Department Employees" means those full-time probationary and regular employees in the constituent job classifications of the "Fire Employees Bargaining Unit" as such unit is recognized by the City Administrator pursuant to §3.12.090 of the Municipal Code. (Ord. 3655 §1, 1974.)

### **3.08.030 Work Week.**

Full-time employees shall work a minimum of forty (40) hours per seven (7) day week, except members of the Fire Department, whose standard duty week shall be as follows:

through June 30, 1975	fifty-eight and eight-tenths (58.8) on duty shift hours when averaged over a one (1) year period.
July 1, 1975 - June 30, 1976	fifty-seven and four-tenths (57.4) on duty shift hours when averaged over a one (1) year period.
July 1, 1976 and thereafter	fifty-six (56) on duty shift hours when averaged over a one (1) year period. (Ord. 3655 §1, 1974.)

### **3.08.040 Overtime.**

A department head or division head may require any employee in his department or division to work overtime for more than the regular number of hours in an assigned work day or week when public necessity or convenience requires such work. (Ord. 3655 §1, 1974.)

### **3.08.050 Compensation for Overtime.**

#### **(a) General Employees:**

1. Whenever cash payment for overtime is mandated by the Federal Fair Labor Standards Act or any other similar statute applicable to the City of Santa Barbara, general employees, except those covered by (d) of this section, who work more than forty (40) hours in any seven (7) day or one hundred sixty-eight (168) hours work week shall receive overtime compensation by cash payment at the rate of 1-1/2 times their regular salary or wage.

2. At all other times, general employees shall be entitled to receive overtime compensation as provided in (d) of this section.

(b) Public Safety Employees: Police Department and Fire Department employees not covered by (c) of this section who work overtime shall be compensated by the following:

1. Compensatory time off as provided in Section 3.08.060; (or)

2. Cash payment if specifically authorized by the City Administrator pursuant to Section 3.08.070.

(c) Management Employees: Management employees shall not be entitled under this section to any compensation for overtime work.

(d) Employees Exempted from the Overtime Provisions of the Fair Labor Standards Act: Employees designated by the City Administrator as exempt from the overtime provisions of the Federal Fair Labor Standards Act shall receive the following compensation for overtime work:

1. Compensatory time off as provided in Section 3.08.060; (or)

2. Cash payment if specifically authorized by the City Administrator pursuant to Section 3.08.070. (Ord. 3719 §3, 1975; Ord. 3655 §1, 1974.)

### **3.08.060 Compensatory Time Off.**

Except as provided in Section 3.08.050 compensatory time off shall be earned and accumulated, and may be taken off at a straight time rate at the discretion of the employee's department head. (Ord. 3655 §1, 1974.)

### **3.08.070 Authorization for Paid Overtime.**

Except as provided in Section 3.08.060, no employees shall receive cash payment for overtime work unless said payment has been first authorized by the City Administrator pursuant to this section. To request authorization from the City Administrator to pay employees for overtime, the department head must notify the City Administrator in writing of the reasons requiring overtime, the members and titles of positions affected, and the probable period of time the overtime will be worked. The request must be made before the overtime is worked. Such paid overtime shall be at a straight time rate. (Ord. 3655 §1, 1974.)

### **3.08.075 Stand-By Pay.**

(a) General Employees: When any general employee is officially designated by the department head to remain available to return to work, at any time during specific hours outside of normal working hours, the employee shall receive two (2) hours of straight time or compensatory time off for each eight (8) hours on stand-by, or fraction thereof.

(b) Police Department Employees: When a Police Department employee is on officially designated stand-by duty and such designation is made at least forty-eight (48) hours prior to commencement of that duty, the employee shall receive one (1) hour of pay for eight (8) hours of duty or fraction thereof. When the stand-by assignment is made

within forty-eight (48) hours of the commencement of the duty, the employee shall receive two (2) hours of pay for eight (8) hours of duty or fraction thereof. Such pay shall be at straight time and shall be paid or taken as compensatory time at the discretion of the Chief of Police. (Ord. 3655 §1, 1974.)

### **3.08.080 Vacation - Accrual and Computation.**

Full-time employees, other than temporary employees, shall be entitled to accrue and receive vacation with pay in accordance with the following schedule:

(a) Officers, department heads, acting department heads and such other management personnel as designated by the City Administrator pursuant to Section 3.04.230 of the Municipal Code:

Length of Continuous Service	Vacation Entitlement
0 through 3rd year	4.6 hours per complete biweekly pay period of service rendered.
4th and 5th years	6.2 hours per complete biweekly pay period of service rendered.
6 years and over	7.7 hours per complete biweekly pay period of service rendered.

At least forty (40) hours of said vacation shall be taken every six (6) months or shall be lost. If conditions prevent such usage, the City Administrator may approve the accumulating of said forty (40) hours subject to the limitation provided in Section 3.08.120.

(b) For other employees designated as "Management" pursuant to Section 3.04.230 of the Municipal Code:

Length of Continuous Service	Vacation Entitlement
0 through 3rd year	3.1 hours per complete biweekly pay period of service rendered.
4th and 5th years	4.6 hours per complete biweekly pay period of service rendered.
6th through 10th years	6.2 hours per complete biweekly pay period of service rendered.
11 years and over	7.7 hours per complete biweekly pay period of service rendered.

(c) For sworn firefighters not designated as "Management" pursuant to Section 3.04.230 of the Municipal Code working shifts in excess of 40 hours per week:

Length of Continuous Service	Vacation Entitlement
0 through 9th year	Eleven (11) working shifts per calendar year.
10 years and over	Seventeen (17) working shifts per calendar year.

(d) Police Department employees shall be entitled to accrue and receive vacation with pay in accordance with the schedule provided in Subsection (e).

(e) General employees shall be entitled to accrue and receive vacation with pay according to the following schedule:

Length of Continuous Service	Vacation Entitlement
0 through 5th year	3.1 hours per complete biweekly pay period of service rendered.
6th through 10th year	4.6 hours per complete biweekly pay period of service rendered.
11th through 24th year	6.2 hours per complete biweekly pay period of service rendered.
24 years and over	7.7 hours per complete biweekly pay period of service rendered.

(f) Prior continuous service of any persons presently employed by the City shall be taken into account in computing vacation entitlement as provided in this section. (Ord. 3866, 1976.)

### **3.08.090 Vacation Scheduling.**

Vacation shall be scheduled by the department head to provide adequate staffing. Such scheduling shall be subject to the needs of the City, but shall take into account employee seniority and choice. (Ord. 3655 §1, 1974.)

### **3.08.095 Jury Duty Leave.**

In the event that an employee of the City is required by a court of competent jurisdiction to perform jury duty and that requirement causes the employee to be away from his regularly assigned work schedule, said jury duty shall be considered leave with pay without interruption of service on the condition that the employee pay to the City Treasurer all compensation he receives for the jury duty.

Responsibility for proper administration of this section shall rest with the department head. (Ord. 3850 §1, 1976.)

### **3.08.100 Procedure for Payment Upon Termination.**

Employees who leave the service of the City for any reason shall receive all pay which may be due and owing to them, with the following qualifications:

(a) Officers or employees so entitled shall be paid for all unused accrued vacation time, if the department head is notified of the leaving two (2) weeks in advance, or sufficient reason is given in the absence of such notice;

(b) In case of death of an employee, his estate shall be paid for accrued vacation and regular pay when accrued. (Ord. 3655 §1, 1974.)

### **3.08.110 Holiday - Falling Within Vacation Time.**

In the event that one (1) or more municipal holidays shall fall within a vacation leave, and the officer or employee is entitled to and eligible for such holidays, the days shall not be charged against accrued vacation leave and the leave shall be extended accordingly. Any officer or employee who is compelled by the nature of the duties involved to work on any holiday for which the officer or employee is eligible, shall receive compensating time off on a day or days which would normally constitute a working day for that officer or employee. (Ord. 3655 §1, 1974.)

### **3.08.120 Accumulation Limits of Vacation Time.**

Vacation time accrued during any calendar year may be accumulated, but must be used in the following calendar year or is lost. Provided, however, that accumulated vacation time, not exceeding an aggregate total of one hundred sixty (160) hours, may be carried over beyond the end of calendar years following the year of its accrual with the written approval of the department head and the City Administrator. Such approval shall be recorded in the personnel file of the officer or employee concerned. Fire Department employees shall be entitled to carry over twenty (20) days of vacation under the procedure provided above. (Ord. 3866, 1976; Ord. 3655 §1, 1974.)

### **3.08.130 Legal Holidays.**

The following days are declared to be legal holidays for all full-time employees in the City service, other than sworn Police personnel and Police Department employees designated by the Chief of Police:

- (1) January 1st.
- (2) February 12th.
- (3) The third Monday in February.
- (4) The last Monday in May.
- (5) July 4th.
- (6) The first Monday in September.
- (7) September 9th.
- (8) The second Monday in October.
- (9) November 11, known as "Veteran's Day".
- (10) December 25th.
- (11) Every day on which an election is held throughout the State.
- (12) The Thursday in November appointed as Thanksgiving Day.

If January 1st, February 12th, July 4th, September 9th, November 11th or December 25th falls on a Sunday, the following Monday shall be observed as a holiday.

If any of the above holidays falls on a Saturday, the preceding Friday shall be observed as a holiday for all employees other than Fire Department employees and those Police Department employees designated below.

Sworn police personnel and Police Department personnel designated by the Chief of Police shall observe one(1) day per month, scheduled in advance, as a holiday. Such days shall be designated in advance by the Chief of Police, bearing in mind first the needs of the City and then the desire of the employee.

An employee, other than a sworn Fire Department employee or Police Department employee designated above, whose regular day off falls on a day which is celebrated as a holiday by other employees shall be entitled to equivalent time off to be determined by the department head for the holiday and the regular day off. Any such employee whose regular work day falls on a holiday which is not observed by other City employees would not be entitled to such holiday time off.

All of the above mentioned holidays shall be observed by the closing of all municipal offices, provided that these offices shall be made available for any necessary stand-by or emergency employees required to work on any such holiday.

When any of the aforementioned holidays fall on Saturday, or Sunday, no temporary employee shall receive payment for such holiday unless he works on such day and in that event he shall be paid regular full-time straight salary or receive time off equivalent to such day. All City employees on a monthly rate shall receive equal number of holidays as set forth above. Work on any of the aforementioned holidays by employees paid on a monthly basis shall be overtime and such employees shall receive straight time pay or equivalent time off for such work in a manner consistent with §3.08.050. Such equivalent time off shall be taken at such time as may be mutually agreed upon by such employee and his department head, provided such equivalent time off must be taken at the earliest practicable time following such holiday, and further provided that any such equivalent time off must be taken prior to the end of the next succeeding calendar year. (Ord. 3692, 1974; Ord. 3655 §1, 1974.)

### **3.08.140 Sick Leave - Accrual.**

All City employees, other than Fire Department employees, shall accrue 3.7 hours of sick leave at full salary for each complete biweekly pay period.

Fire Department employees shall accrue sick leave in the amounts and at the percentages of full salary in accordance with the following schedule:

#### **Percentage of Compensation:**

- (a) After four (4) months of continuous service, sick leave not exceeding one (1) week at ..... 75%
- (b) After one (1) year of continuous service, sick leave not exceeding two (2) weeks at ..... 100%
- (c) After two (2) years of continuous service, sick leave not exceeding three (3) weeks, the first two (2) weeks at ..... 100% and a third week at ..... 65%

(Ord. 3866, 1976; Ord. 3655 §1, 1974.)

### **3.08.150 Sick Leave - Accumulation.**

(a) All City employees shall be credited with such full salary (100%) sick leave as shall remain to the employee's credit on the last day of each calendar year. For all City employees, excluding Fire Department employees, such accumulated sick leave shall not exceed a total of seven hundred twenty (720) hours and is replenishable. For Fire Department employees, such accumulated sick leave shall not exceed a total of ninety (90) days and is replenishable.

(b) After five (5) years of continuous service, an employee, except Fire Department employees, may accumulate additional sick leave at the rate of sixteen (16) hours at full salary for each additional year of continuous service, provided such accumulation shall not exceed two hundred forty (240) hours, and is not replenishable. After five (5) years of continuous service, Fire Department employees may accumulate additional sick leave at the rate of two (2) days at full salary for each additional year of continuous service, provided such accumulation shall not exceed thirty (30) days and is not replenishable. (Ord. 3866, 1976; Ord. 3655 §1, 1974.)

### **3.08.160 Sick Leave - Administration.**

(a) Sick leave authorized for Fire Department employees pursuant to Section 3.08.140 be allowed in the following order:

- (1) Current sick leave provided in Subsections (a), (b) or (c), as applicable, except current sixty-five percent (65%) sick leave provided in Subsection (c).
  - (2) Additional one hundred percent (100%) sick leave provided in Section 3.08.150 (a).
  - (3) Accumulated one hundred percent (100%) non-replenishable sick leave provided under Section 3.08.150
- (b).
- (4) Current sixty-five percent (65%) sick leave provided in Subsection (c).

(b) Sick leave authorized for other employees pursuant to the provisions of Section 3.08.140 of the Municipal Code shall be allowed in the following order:

(1) Current accrued and accumulated one hundred percent (100%) sick leave pursuant to §§3.08.140 and 3.08.150(a);

(2) Accumulated one hundred percent (100%) non-replenishable sick leave provided under Section 3.08.150 (b);

(3) Other one hundred percent (100%) sick leave previously authorized and accrued prior to January 1, 1974, provided however, such sick leave shall not carry over beyond December 31, 1974;

(c) All individuals employed by the City prior to January 1, 1974, shall be credited, as of said date, with all sick leave accrued and unused during the 1973 calendar year. (Ord. 3655, 1974.)

### **3.08.170 Evidence Provided for Payments of Sick Leave.**

No sick leave payment shall be made except after satisfactory evidence of illness covering the period of absence has been accepted and approved by the head of the department in which the absentee is employed. If any officer or employee, other than Fire Department employees, is absent from work for more than twenty-four (24) working hours on sick leave, he shall present to his department head a statement from a physician attesting to the fact that such absence was necessary because of said sickness. The statement shall be permanently filed by the department head. Fire Department employees shall be required to present a physician's statement when absent from work on sick leave for more than two (2) consecutive twenty-four (24) hour working shifts.

Under no circumstances is sick leave to be used in lieu of or in addition to, or as vacation.

Responsibility for proper administration of this chapter shall rest with each department head and improper use of sick leave benefits shall be cause for employee dismissal from the City service. (Ord. 3866, 1976; Ord. 3655 §1, 1974.)

### **3.08.180 Sick Leave - Continuous Illness Extending Over Calendar Year.**

Where an illness is continuous and extends from one (1) calendar year into the next, the employee shall be entitled to complete the period of sick leave to which he was entitled at the commencement of such illness. (Ord. 3655 §1, 1974.)

### **3.08.190 Combining Sick Leave and Vacation Time.**

Vacation time and sick leave time may be combined in case of exceptional illness of any employee in the discretion of the department head or City Administrator. (Ord. 3655 §1, 1974.)

### **3.08.200 Bereavement Leave.**

In case of death of a member of an employee's immediate family, the employee shall be granted three (3) working days leave with pay. The employee shall be eligible to receive two (2) additional days leave with pay, up to a maximum of five (5) days, subject to the approval of the department head. Employees of the Fire Department assigned to shift work shall be granted leave not to exceed two (2) shifts off with pay.

Immediate family is defined as mother, father, brother, sister, spouse, child, grandparents by blood or marriage, mother-in-law, father-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law or person standing in loco parentis.

The intent of bereavement leave is to provide employees with adequate time to be with their immediate family during a period of anguish, whether it be at the time of death, preparation of funeral arrangements and/or to attend a funeral.

Responsibility for proper administration of this section shall rest with each department head. (Ord. 3655 §1, 1974.)

### **3.08.210 Leave of Absence - Schedule - Granting by City Administrator - Compensation.**

Whenever any person entitled to benefits under the provisions of Sections 3.08.140 through 3.08.190 shall have been in the service of the City continuously for five (5) years or more, upon his written application approved by his department head or the City Administrator and accompanied by a report from a medical doctor, stating the extent and nature of the illness of the applicant and approximate time required for recovery, the City Administrator may grant to such person an extra leave of absence because of illness in addition to that provided by Sections 3.08.140 through 3.08.190. Such leave of absence shall be in accordance with the following schedule:

Service in Years Active and Continuous	Maximum Number of Months of Extra Leave Allowable
5 - 10	3
10 - 15	6 (including the above 3)
15 - 20	9 (including the above 6)
20 plus	12 (including the above 9)

During such period of extra leave, such person shall receive an amount equal to fifty percent (50%) of his regular salary or wages. (Ord. 3655 §1, 1974.)

### **3.08.220 Injury in the Course of Employment - Workers' Compensation - Payments from City.**

Where sickness or injury is sustained in the course of employment with the City, such officer or employee shall be compensated under the provisions of the Workers' Compensation Insurance and Safety Act of the State and not under the provisions of this chapter; provided, however, that if during the first three (3) calendar days of necessary absence for such cause, the disabled person shall be qualified for and receive payments under the above-mentioned act, he shall also receive from the City a sum which, when added to the disability payment under the aforesaid act, shall make a total equal to the full salary of such officer or employee at the time of his injury. However, if during the first three (3) day period he does not qualify for disability payments under the Act, such officer or employee shall receive one hundred percent (100%) of his salary or wages for that period. If said absence is subsequently determined not to have been sustained in the course of employment with the City, it shall be charged against the employee's accumulated sick leave. Such benefit shall accrue for each such disability but shall not entitle a person to more than one (1) week's pay in cases of recurring disability from the same cause; it is further provided that in the event any employee sustains such illness or injury from the performance of duties within the scope of his employment with the City, he shall also receive from the City during such disability for an additional period not exceeding twelve (12) months for policemen or firemen, and not exceeding three (3) months for other full-time employees, in addition to the disability payment payable under the Workers' Compensation Insurance and Safety Act of the State, a sum which, when added to the disability payment payable under the aforesaid act shall make a total equal to the full salary of such employee at the time of his injury; provided, however, that when any such employee shall be retired from active service or employment because of such disability, then in such event, the provisions of this chapter shall not apply and such person shall be entitled only to the benefits set forth in the City Charter. (Ord. 3655 §1, 1974.)

### **3.08.230 Payment of Salaries and Filling of Positions During Absences.**

Where an officer or employee is absent from the duties of his position because of vacation or illness and receives any moneys whatsoever from the City pursuant to the provisions of this chapter, such sums shall be paid from moneys appropriated for the payment of the salary or wage of the position such person fills. The position of an officer or employee who is absent on an approved leave which shall include but not be limited to sick leave, vacation, or leave without pay shall be considered filled for the duration of such approved leave. Notwithstanding the above, where an officer or employee is absent from the duties of his position because of an industrial injury or illness and he has exhausted his leave rights under Section 4850 of the Labor Code of the State of California and is receiving benefits pursuant to Section 21025.2 of the Government Code of the State of California prior to the effective date of retirement, his position shall be considered vacant and may be filled by the appointing authority pursuant to Chapter 3.16 of the Municipal Code of the City of Santa Barbara. (Ord. 3925 §2, 1977.)

### **3.08.240 Leave of Absence Without Pay - Approval of City Administrator.**

A leave of absence without pay may be granted to any officer or employee of the City by appointing officer or board; provided, that in the event such leave be requested for a longer period than seven (7) calendar days, such request in all cases shall be presented to and approved by the City Administrator before it may be granted. (Ord. 3655 §1, 1974.)

### **3.08.250 Computing Continuous Service.**

For the purpose of computing continuous service, leaves of absence on account of illness whether with or without pay shall not be construed as a break or interruption in service. Other leaves of absence or layoffs on account of lack of work or funds or other reasons totalling in excess of ninety (90) consecutive calendar days shall be construed as breaking continuous service. (Ord. 3655 §1, 1974.)

### **3.08.260 Transportation Allowance for Officials and Employees for Use of Privately Owned Vehicles.**

Each official or employee, other than the Mayor and City Councilmembers using any vehicle not owned by the City, for transportation purposes in the proper discharge of his duties as such official or employee, shall be allowed and shall receive a transportation allowance in addition to compensation paid such official or employee as salary or wages. Said allowance shall be established by resolution of the City Council. (Ord. 4047, 1980; Ord. 3931, 1977; Ord. 3655, 1974.)

### **3.08.265 Reimbursement to Mayor and City Councilmembers for Local Use of Privately Owned Automotive Vehicles.**

Due to increased and increasing activity by the Mayor and City Councilmembers in the local pursuit of public business requiring the use of automotive vehicles, it is deemed that such use by said elected officials of City-owned vehicles for City business is a justifiable utilization of public property. A study of relative costs by the City's financial staff indicates that the cost of providing such City-owned vehicles to the Mayor and Councilmembers for local use, however, would appreciably exceed the cost of fair and reasonable reimbursement to said elected officials for such portion of their use of privately owned vehicles as is devoted to duties on behalf of the public.

Pursuant to Section 502 of the Charter of the City of Santa Barbara, therefore, the Mayor and each Councilmember is entitled to a vehicle allowance to cover the routine and ordinary costs, including mileage and depreciation, of operating privately owned automotive vehicles in the necessary local performance of public duty. The vehicle allowance shall be paid to the Mayor and each City Councilmember monthly by the City. The base monthly vehicle allowance for the Mayor will be \$405 per month and for Councilmembers will be \$280 per month. Said vehicle allowances will henceforth be indexed, on a percentage basis, with changes in the standard mileage rate as established by Internal Revenue Service (IRS) regulations. Therefore, when the IRS increases the mileage reimbursement rate, the monthly vehicle allowance will be adjusted upward or downward by an equal percentage.

Payments made pursuant to this section are hereby determined to constitute reimbursement for actual costs and expenses incurred in the official and regular discharge and performance of duties pertaining to City business. No such payment shall be deemed to represent compensation, salary, allowance, bonus, or any other form of payment for the rendering of personal services on behalf of the City. (Ord. 4612, 1990; Ord. 4324, 1985; Ord. 4276, 1984; Ord. 4047, 1980; Ord. 3655 §1, 1974.)

### **3.08.270 Presentment of Mileage Claims and Vouchers.**

Mileage claims authorized by Section 3.08.260 shall be duly presented and filed each month for mileage of the preceding month. (Ord. 3655 §1, 1974.)

### **3.08.280 Authority to Use Automobile on City Business - City Administrator.**

Prior to the use by any official or employee, other than the Mayor and City Councilmembers of the City of an automobile, allowance for which is to be paid for as provided by this chapter, there shall first be certified to such official or employee by the City Administrator, written authority to use an automobile in the performance of such official's or employee's duties as an official or employee of the City and to receive the transportation allowance therefor provided for by this chapter and a copy of such written authority shall be upon the issuance thereof by the City Administrator filed with the City Auditor and with the City Treasurer. (Ord. 3655 §1, 1974.)

### **3.08.290 Record of Mileage.**

Each official or employee, other than the Mayor and City Councilmembers, receiving the allowance provided for by this chapter shall keep records of the mileage allowed by this chapter in such a way as to enable verification thereof being made. (Ord. 3655 §1, 1974.)

### **3.08.300 Additional Compensation Not Allowed.**

No official or employee of the City using an automobile as allowed by this chapter shall receive from the City any other allowance for compensation for such use than that provided by this chapter, except that the City may reimburse up to a maximum of One Hundred Dollars (\$100) for repair expense incurred by the official or employee when a privately owned vehicle is damaged by collision or receives other accidental damage subject to the following conditions:

1. Vehicle was used with the written permission or authorization of the City Administrator under Section 3.08.280 of the Code.

2. The amount claimed is actual loss to the official or employee because it is not recoverable either directly from or through the insurance coverage of any of the parties involved in the accident.

3. Claim is presented within one hundred (100) days of date of accident. (Ord. 3714 §1, 1974; Ord. 3655 §1, 1974.)



### **3.08.310 Bonds Required by Persons Handling City Funds.**

Any and all employees of the City of the different departments thereof, who in the regular course of their employment, handle funds belonging to the City shall give a bond to the City. (Ord. 3655 §1, 1974.)

### **3.08.320 Amount of Bonds.**

The following named officers of the City shall give bonds in the following amounts:

- |                           |             |
|---------------------------|-------------|
| (1) City Administrator    | \$ 5,000.00 |
| (2) City Treasurer        | 100,000.00  |
| (3) Director of Finance   | 100,000.00  |
| (4) City Attorney         | 5,000.00    |
| (5) City Clerk            | 5,000.00    |
| (6) Chief of Police       | 5,000.00    |
| (7) Public Works Director | 5,000.00    |

(Ord. 3714 §1, 1974; Ord. 3655 §1, 1974.)

### **3.08.330 Excluded Personnel - Temporary, Part-Time, Seasonal.**

Temporary, part-time or seasonal employees paid on an hourly basis are excluded from the provisions of §§3.08.080 to 3.08.120 inclusive. (Ord. 3655 §1, 1974.)

### **3.08.340 Officers Who Must Live Within City Limits.**

In accordance with the provisions of the City Charter, the Mayor, members of the City Council, the City Administrator, and any member of an appointed board or commission of the City shall have his permanent residence within the City, except as otherwise provided in this Code. (Ord. 3655 §1, 1974.)

### **3.08.350 Permanent Residence Defined.**

For the purpose of this chapter the words "permanent residence" shall be deemed to be that place where the officer or employee maintains his home for himself and his family, and from which he has no present intention of removing or to which he has a general intention to return from any temporary location. (Ord. 3655 §1, 1974.)

## Chapter 3.12

### EMPLOYER-EMPLOYEE RELATIONS

#### Sections:

<b>3.12.010</b>	<b>Statement of Purpose.</b>	<b>3.12.100</b>	<b>Recognition of Employee Organizations as Majority Representative - Formal Recognition.</b>
<b>3.12.020</b>	<b>Definitions.</b>	<b>3.12.120</b>	<b>Revocation of Recognition.</b>
<b>3.12.030</b>	<b>Employee Rights.</b>	<b>3.12.130</b>	<b>Memorandum of Understanding.</b>
<b>3.12.040</b>	<b>City Rights.</b>	<b>3.12.140</b>	<b>Rules and Regulations.</b>
<b>3.12.050</b>	<b>Meet and Confer in Good Faith - Scope.</b>	<b>3.12.150</b>	<b>Construction.</b>
<b>3.12.060</b>	<b>Consultation in Good Faith - Scope.</b>	<b>3.12.160</b>	<b>Time Off for Employee Representatives.</b>
<b>3.12.070</b>	<b>Advance Notice.</b>	<b>3.12.170</b>	<b>Separability.</b>
<b>3.12.080</b>	<b>Petition for Recognition.</b>		
<b>3.12.090</b>	<b>Appropriate Unit.</b>		
<b>3.12.095</b>	<b>Procedure for Modification of Established Appropriate Unit.</b>		

#### **3.12.010 Statement of Purpose.**

The purpose of this Chapter is to implement Chapter 10, Division 4, Title 1, of the Government Code of the State of California (Sections 3500, et seq.), captioned "Public Employee Organizations", by providing orderly procedures for the administration of employer-employee relations between the City and its employee organizations for resolving disputes regarding wages, hours and other terms and conditions of employment. (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

#### **3.12.020 Definitions.**

As used in this Chapter, the following terms shall have the meanings indicated:

- (a) "Appropriate unit" means a unit established pursuant to Section 3.12.090 of this Chapter;
  - (b) "City" means the City of Santa Barbara, a municipal corporation, and where appropriate herein, "City" refers to the City Council, the governing body of said City, or any duly authorized management employee as herein defined;
  - (c) "Consult or consultation in good faith" means to communicate verbally or in writing for the purpose of presenting and obtaining views or advising of intended actions;
  - (d) "Employee" means any person regularly employed by the City except those persons elected by popular vote;
  - (e) "Employee, confidential" means an employee who is privy to decisions of City management affecting employer-employee relations;
  - (f) "Employee, management" means any employee having significant responsibilities for formulating and administering City policies and programs, including but not limited to the Chief Executive Officer and department heads;
  - (g) "Employee organization" means any organization which includes employees of the City and which has as one of its purposes representing such employees in their employment relations with the City;
  - (h) "Recognized employee organization" means an employee organization which has been acknowledged by the Municipal Employee Relations Officer as an employee organization that represents employees of the City.
- The rights accompanying recognition are either:
- (1) "Formal Recognition" which is the right to meet and confer in good faith as the majority representative in an appropriate unit, or
  - (2) "Informal recognition" which is the right to consultation in good faith by all recognized employee organizations;
  - (i) "Employer-employee relations" means the relationship between the City and its employees and their employee organization, or when used in a general sense, the relationship between City management and employees or employee organizations;
  - (j) "Majority representative" means an employee organization, or its duly authorized representative, that has been granted formal recognition by the Municipal Employee Relations Officer as representing the majority of employees in an appropriate unit;
  - (k) "Meet and confer in good faith" (sometimes referred to herein as "meet and confer" or "meeting and conferring") means performance by duly authorized City representatives and duly authorized representatives of a recognized employee organization of their mutual obligation to meet at reasonable times, and to confer in good faith regarding matters within the scope of representation, including wages, hours and other terms and conditions of employment in an effort to:

(1) Reach agreement on those matters within the authority of such representatives by a memorandum of understanding,

(2) Reach agreement on what will be recommended to the City Council on those matters within the decision making authority of the City Council.

This does not require either party to agree to a proposal or to make a concession;

(l) "Municipal Employee Relations Officer" means the City Administrator or his duly authorized representative;

(m) "Scope of representation" means all matters relating to employment conditions and employer--employee relations, including but not limited to, wages, hours and other terms and conditions of employment. City rights (Section 3.12.040) are excluded from the scope of representation. (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

### **3.12.030 Employee Rights.**

Employees of the City shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations including but not limited to wages, hours and other terms and conditions of employment. Employees of the City also shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the City. No employee shall be interfered with, intimidated, restrained, coerced or discriminated against because of his exercise of these rights. (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

### **3.12.040 City Rights.**

The rights of the City include, but are not limited to, the exclusive right to determine the mission of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards of selection for employment and promotion; direct its employees; take disciplinary action; relieve its employees from duty because of economic reasons or for cause as provided in Section 1007 of the City Charter; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; determine the content of job classifications; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work. (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

### **3.12.050 Meet and Confer in Good Faith - Scope.**

(a) The City, through its representatives, shall meet and confer in good faith with representatives of formally recognized employee organizations with majority representation rights regarding matters within the scope of representation including wages, hours and other terms and conditions of employment within the appropriate unit.

(b) The City shall not be required to meet and confer in good faith on any subject pre-empted by Federal or State law, nor shall it be required to meet and confer in good faith on employee or City rights as defined in Sections 3.12.030 and 3.12.040. (Ord 4537, 1988; Ord. 3467 §1(part), 1971.)

### **3.12.060 Consultation in Good Faith - Scope.**

All matters affecting employer-employee relations, including those that are not subject to meeting and conferring, are subject to consultation. The City, through its representatives, shall consult in good faith with representatives of all recognized employee organizations on employer-employee relations matters which affect them. (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

### **3.12.070 Advance Notice.**

Reasonable written notice shall be given to each recognized employee organization affected of any ordinance, rule, resolution or regulation directly relating to matters within the scope of representation proposed to be introduced to or by the City Council, or any committee of the City Council, or by any board or commission of the City, and each shall be given the opportunity to meet with such body prior to adoption. Emergency resolutions and ordinances are excepted, but employee representatives shall be notified of such resolutions and ordinances as soon as possible. (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

### **3.12.080 Petition for Recognition.**

There are two (2) levels of employee organization recognition, formal and informal. The recognition requirements of each are set forth below:

(a) "Formal recognition" means the right to meet and confer in good faith as majority representative: An employee organization that seeks formal recognition for purposes of meeting and conferring in good faith as the majority representative of employees in an appropriate unit shall file a petition with the Municipal Employee Relations Officer containing the following information and documentation:

- (1) Name and address of the employee organization,
- (2) Names and titles of its officers,
- (3) Names of employee organization representatives who are authorized to speak on behalf of its members,
- (4) A statement that the employee organization has, as one of its primary purposes, representing employees in their employment relations with the City,
- (5) A statement whether the employee organization is a Chapter or local of, or affiliated directly or indirectly in any manner with, a regional or state, or national or international organization, and, if so, the name and address of each such regional, state, national or international organization,
- (6) A copy of the employee organization's constitution and by-laws currently in effect,
- (7) A designation of those persons, not exceeding three (3) in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose,
- (8) A statement that the employee organization has no restriction on membership based on race, color, creed, sex or national origin,
- (9) The job classification or titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein,
- (10) A statement on appropriate City forms provided for this purpose that the employee organization has in its possession written proof, dated within six (6) months of the date upon which the petition is filed, to establish that at least thirty (30) percent of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the City. Such written proof shall be submitted for confirmation to the Municipal Employee Relations Officer or to a mutually agreed upon disinterested third party.
  - (i) Effective upon adoption of the ordinance codified herein, any employee organization that has been formally recognized by the City Council shall be deemed to have been recognized for purposes of Section 3.12.080,
- (11) A request that the Municipal Employee Relations Officer recognize the employee organization as the majority representative of the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith on all matters within the scope of representation,
  - (b) "Informal recognition" means the right to consult in good faith: An employee organization that seeks recognition for purposes of consultation in good faith shall file a petition with the Municipal Employee Relations Officer containing the following information and documentation:
    - (1) All of the information enumerated in (a)(1) through (a)(8) of this section, inclusive,
    - (2) A request that the Municipal Employee Relations Officer recognize the employee organization for the purpose of consultation in good faith,
  - (c) Any other employee organization may file an intervener petition pursuant to the requirements set forth in Section 3.12.120(c) within fifteen (15) days after a petition for recognition is received by the City.
  - (d) The Municipal Employee Relations Officer shall grant recognition, in writing, to all employee organizations who have complied with Section 3.12.080(a) or (b). Employee organizations seeking formal recognition as majority representative must, in addition, satisfy the requirement of Section 3.12.100(a)(1) below. No employee may be represented by more than one (1) recognized employee organization for the purposes of this Chapter. (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

### **3.12.090 Appropriate Unit.**

(a) The Municipal Employee Relations Officer, after reviewing the petition filed by an employee organization seeking formal recognition as majority representative, shall determine whether the proposed unit is an appropriate unit. The principal criterion in making this decision is whether there is a community of interest among such employees. The following factors are to be considered in making such determination:

(1) Which unit will assure employees the fullest freedom in the exercise of rights set forth under this Chapter;

(2) The history of employee relations:

- (i) In the unit,
- (ii) Among other employees of the City, and
- (iii) In similar public employment;

(3) The effect of the unit on the efficient operation of the City and sound employer-employee relations;

(4) The extent to which employees have common skills, working conditions, job duties or similar educational requirements

(5) The effect on the existing classification among two (2) or more units.

Provided, however, no unit shall be established solely on the basis to the extent to which employees in the proposed unit have organized.

(b) In the establishment of appropriate units:

(1) Professional employees shall not be denied the right to be represented separately from non--professional employees, and

(2) After meeting and conferring with formally recognized employee groups, certain management and confidential employees may be designated for the purposes of preventing such employees from representing a unit of non-management and non-professional employees on matters within the scope of representation.

(c) If, after considering the above criteria, the Municipal Employee Relations Officer denies recognition to a unit requesting such recognition, an appeal from his decision may be filed with the Board of Civil Service Commissioners. The appeal must be in writing, stating specific reasons why the unit should be recognized, and must be filed with the Secretary to the Board (Personnel Director) within fifteen (15) days after the unit requesting recognition receives notice of denial of recognition from the Municipal Employee Relations Officer. Upon receipt of the appeal for recognition, the Board shall set a hearing date within twenty (20) days, and written notice of the time and place thereof shall be given to the unit in person or by mail at least ten (10) days before the hearing. The decision of the Board shall be binding, but a unit whose request has been denied by the Board may repetition for recognition after twelve (12) months have elapsed since such decision. (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

(d) The Municipal Employee Relations Officer shall, after notice to and consultation with affected employee organizations, allocate new classifications or positions, delete eliminated classifications or positions, and retain, reallocate or delete modified classifications or positions from units in accordance with the provisions of this Section.

### **3.12.095 Procedure for Modification of Established Appropriate Unit.**

Requests by employee organizations or groups of employees for modifications of established appropriate unit may be considered by the Municipal Employee Relations Officer only during the open period specified in Sec. 3.12.120. Such requests shall be submitted in the form of a Petition for Recognition pursuant to the requirements set forth in Sections 3.12.080 3.12.090. The Municipal Employee Relations Officer shall process such petitions as other Petitions for Recognition under Sec. 3.12.080 and Sec 3.12.090, including the right of appeal contained in 3.12.090(c).

Any other employee organization may file an intervener petition pursuant to Section 3.12.120(c) when a petition includes a request for recognition.

The Municipal Employee Relations Officer may propose during the open period specified in Sec.3.12.120 that an appropriate unit be modified. The Municipal Employee Relations Officer shall give written notice of each proposed modification to any affected employee organization and shall hold a meeting concerning proposed modification, at which time all affected employee organizations shall be heard. Thereafter the Municipal Employee Relations Officer shall determine the composition of the appropriate unit or units in accordance with Sec. 3.12.090, and shall give written notice of such determination to the affected employee organizations. The Municipal Employee Relations Officer's determination may be appealed as provided in Section 3.12.090 (c). If a unit is modified pursuant to the motion of the Municipal Employee Relations Officer hereunder, an employee organization may thereafter file a Petition for Recognition seeking to become the recognized employee organization for such new appropriate unit or units pursuant to Sec. 3.12.080.

### **3.12.100 Recognition of Employee Organizations as Majority Representative - Formal Recognition.**

(a) The Municipal Employee Relations Officer may:

(1) Determine the majority representative of City employees in an appropriate unit by arranging for a secret ballot election or by any other reasonable method which is based upon written proof, and is designed to ascertain the free choice of a majority of such employees. The employee organization found to represent a majority of the employees in an appropriate unit shall be granted formal recognition and is the only employee organization entitled to meet and confer in good faith on matters within the scope of representation for employees in such unit. This shall not preclude other employee organizations, or individual employees, from consulting with management representatives on employer-employee relations matters of concern to them;

(2) Revoke the recognition rights of a majority representative which has been found by secret ballot election no longer to be the majority representative pursuant to Section 3.12.120.

(b) The recognition rights of the majority representative designated in accordance with this section shall not be subject to challenge for a period of twelve (12) months following the date of such recognition. (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

### **3.12.120 Revocation of Recognition.**

(a) Initiated by Petition. Any group of employees of an appropriate unit represented by a formally recognized employee organization may initiate the process of revoking that organization's recognition by filing a revocation of recognition petition with the Municipal Employee Relations Officer. Said petition shall meet the requirements set forth in Section 3.12.080. The petition may only be filed during an "open period", defined as (i) the month of March of any year following the first twelve months of recognition, or (ii) the thirty (30) day period beginning one hundred twenty (120) days prior to the termination date of the Memorandum of Understanding affecting that unit then having been in effect less than three years, whichever is later.

A revocation of recognition petition may be combined with a petition for recognition by adhering to the requirements of Section 3.12.080 as well as those requirements in this section. Following receipt of a revocation of recognition petition the Municipal Employee Relations Officer shall make a written determination to accept or reject the petition. The Employee Relations Officer shall notify the affected labor organizations of his determination. An appeal of this determination may be filed with the Board of Civil Service Commissioners, as provided in Section 3.12.090(c).

(b) Election. Upon the determination of a revocation petition's acceptance or rejection, or upon decision by the Board, the Municipal Employee Relations Officer shall promptly schedule an election among the employees of each affected unit to decide the question in accordance with Section 3.12.100. Such election shall take place no sooner than thirty (30) days following the determination of the Municipal Employee Relations Officer or alternately the decision of the Board of Civil Service Commissioners.

(c) Intervener Petition. Within fifteen (15) days of the filing of a revocation petition which combines a request for recognition, any other employee organization may file an intervener petition for recognition as to the affected unit pursuant to Section 3.12.080. Such a petition must include written proof dated within six months of the date of filing, of employee approval equal to at least ten percent (10%) of employees within the unit.

(d) New Representative. Within fifteen (15) days of the filing of a revocation of recognition petition or issuance of a notice by the Municipal Employee Relations Officer that revocation proceedings have commenced, any other employee organization may file a Petition for Recognition as to any affected appropriate unit pursuant to Section 3.12.080. Any election to be held as to that Petition may be held concurrently with the election on the issue or revocation of recognition.

(e) No Impact on MOU. Neither the revocation of recognition of an employee organization, nor the recognition of a different employee organization, shall have any effect on a Memorandum of Understanding then in effect. Any employee organization which is formally recognized as to a unit during the term of an MOU shall be bound by all of the terms and conditions of that MOU. (Ord. 4537, 1988.)

### **3.12.130 Memorandum of Understanding.**

When the meeting and conferring process is concluded between the City and a formally recognized employee organization representing a majority of the employees in an appropriate unit, all agreed upon matters shall be incorporated in a written memorandum of understanding signed by the duly authorized City representative and the majority representatives.

As to those matters within the authority of the City Council, the memorandum of decision shall be submitted to the City Council for determination. (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

### **3.12.140 Rules and Regulations.**

The City Council may adopt such rules and regulations necessary to implement the provisions of this Chapter and Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500, et seq.). (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

### **3.12.150 Construction.**

(a) Nothing in this Chapter shall be construed to deny any person or employee the rights granted by Federal and State laws and City Charter provisions.

(b) The rights, powers and authority of the City Council in all matters, including the right to maintain any legal action, shall not be modified or restricted by this Chapter.

(c) Nothing contained in this Chapter shall abrogate any Written agreement between any employee organization and the City in effect on the effective date of this Chapter. All such agreements shall continue in effect for the duration of the term specified therein unless modified or rescinded by mutual agreement of the parties thereto.

(d) The provisions of this Chapter are not intended to conflict with the provisions of Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500, et seq.), as amended in 1968. (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

### **3.12.160 Time Off for Employee Representatives.**

(a) Employee representatives shall be allowed reasonable time off to meet and confer with employer representatives.

(b) One (1) member from each formally recognized employee association shall be granted up to three (3) working days or two (2) shifts off in the case of members of the Fire Department, with pay, once annually to attend state, regional or national conferences or conventions of employee associations of which said employee is a member. No other expense incurred by attendance at said conference or convention shall be paid by the City. (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

### **3.12.170 Separability.**

If any provision of this Chapter, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Chapter, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. (Ord. 4537, 1988; Ord. 3467 §1(part), 1971.)

## Chapter 3.16

### CIVIL SERVICE SYSTEM

#### Sections:

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		3.16.450	Investigations.

#### 3.16.010 Purpose.

The purpose of this chapter is to implement the Civil Service System established by Article X of the City Charter. (Ord. 3267 §1(part), 1968.)

#### 3.16.020 Definitions.

The following words and phrases shall have the meaning indicated, unless the context or usage clearly requires a different meaning:

- A. **ADVANCEMENT.** A salary increase within the limits of pay range established for a class.
- B. **ALLOCATION.** The assignment of a single position to its proper class in accordance with the duties performed, and the authority and responsibilities exercised.
- C. **APPOINTING POWER.** The officer appointed by the City Council, the City Administrator or the person authorized by the City Administrator or the City Council, in accordance with the provisions of the City Charter, as the case may be, who has the authority to make the appointment to the position involved in the particular instance.
- D. **BOARD.** The Board of Civil Service Commissioners.
- E. **CHARTER.** The 1967 Charter of the City.
- F. **CLASS.** All positions sufficiently similar in duties, authority, and responsibility, to permit grouping under a common title and the application with equity of common standards of selection, transfer, promotion and salary.
- G. **CLASSIFIED SERVICE.** The classified service as defined in Section 1001 of the Charter.
- H. **DEMOTION.** The movement of an employee from one class to another class having a lower salary range.
- I. **ELIGIBLE.** A person whose name is on an employment list.



J. **EMPLOYMENT DECISION.** A written determination by the appointing power to certify for employment, employ, promote, advance, assign or transfer an individual who has applied for employment or affecting an existing City employee.

K. **EMPLOYMENT LISTS.**

1. **OPEN EMPLOYMENT LIST.** A list of names of persons who have taken an open competitive examination for a class in the classified service and have qualified.

2. **PROMOTIONAL EMPLOYMENT LIST.** A list of names of persons who have taken a promotional examination for a class in the classified service and have qualified.

L. **EXAMINATIONS.**

1. **OPEN COMPETITIVE EXAMINATION.** An examination for a particular class which is open to all persons meeting the qualifications for the class.

2. **PROMOTIONAL EXAMINATION.** An examination for a particular class, admission to the examination being limited to City employees who meet the qualifications for the class.

3. **CONTINUOUS EXAMINATION.** An open competitive examination which is administered periodically and as a result of which names are placed on an employment list, in order of final scores, for a period of not more than one (1) year.

M. **MARITAL STATUS.** An individual's state of marriage, non-marriage, divorce or dissolution, separation, widowhood, annulment, or other marital state.

N. **PERMANENT EMPLOYEE.** An employee who has successfully completed his probationary period and has been retained as provided in this Chapter.

O. **PROBATIONARY PERIOD.** A working test period of one (1) year during which an employee is required to demonstrate his fitness for the duties to which he is appointed by actual performance of the duties of the position.

P. **PROMOTION.** The movement of an employee from one class to another class having a higher salary range.

Q. **PROVISIONAL APPOINTMENT.** An appointment of a person who possesses the minimum qualifications established for a particular class and who has been appointed to a position in that class in the absence of available eligibles.

R. **RELATIVES.** Persons who are related to each other within the third degree of consanguinity.

S. **SPOUSE.** A partner in marriage as defined in California Civil Code Section 4100. (Ord. 4564, 1989; Ord. 3836, 1976; Ord. 3425 §§1, 2, 1970; Ord. 3267 §1(part), 1968.)

**3.16.040 Violation of Chapter.**

Violations of the provisions of this chapter shall be grounds for rejections, suspensions, demotions, or dismissal. (Ord. 3267 §1(part), 1968.)

**3.16.050 Announcement.**

All examinations for classes in the classified service shall be publicized by posting announcements in the City Hall, on official bulletin boards, and by such other methods as the Personnel Director deems advisable. The announcement shall specify the title and pay of the class for which the examination is announced; the nature of the work to be performed; preparation desirable for the performance of the work of the class; the manner of making applications; and other pertinent information. (Ord. 3267 §1(part), 1968.)

**3.16.060 Application Forms.**

Applications shall be made as prescribed on the examination announcements. Application forms shall require information covering training, experience, and other pertinent information, and may include certificates of one (1) or more examining physicians, references and fingerprinting. All applications must be signed by the person applying. (Ord. 3267 §1(part), 1968.)

**3.16.065 Veteran's Preference.**

Any person who is a veteran as defined in Section 18973 of the Government Code of the State of California and who shall have been other than dishonorably discharged, released from a veteran's hospital, or completed veteran's paid schooling in the five (5) years immediately preceding the date an open competitive examination for a class or position not designated as management is announced shall be eligible to receive a preferential credit of five (5) points added to the total score earned in the examination; provided, however, that the veteran must meet the minimum qualifications set for entrance in the examination and must first attain a passing score in each phase of the examination.

Disabled veterans and widows of veterans shall also be eligible under the same conditions as outlined above to receive preferential credit of ten (10) points and five (5) points, respectively. However, there shall be no five (5) year statute of limitation applied to such persons.

Preference shall not apply to promotional examinations, nor shall it apply to any personnel transaction such as dismissal, demotion, suspension, transfer, or lay-off.

To claim veteran's preference credit an applicant must apply for such credit in the space provided on the application form and must submit evidence as the Personnel Department may require at time of filing application. (Ord. 3925 §3, 1977; Ord. 3525, 1972.)

### **3.16.070 Disqualification.**

The Personnel Director shall reject any application which indicates on its face that the applicant does not possess the minimum qualifications required for the position. Applications shall be rejected if the applicant is physically unfit for the performance of duties of the position to which he seeks appointment; is addicted to the use of narcotics or drugs; habitually uses intoxicating liquor in excess; has been dismissed or has resigned in order to avoid dismissal, for good cause from any public or private service; or has made any false statement of any material fact, or practiced any deception or fraud in his application or in the examination process. Defective applications may be returned to the applicant with notice to amend the same providing the time limit for receiving applications has not expired. Cause for rejection of an application as provided in this section shall also be cause for refusal to examine, for refusal to certify as an eligible and for removal from an employment list.

Except as otherwise provided herein, conviction (including pleas of guilty and nolo contendere) of a felony or a misdemeanor shall be prima facie disqualification of an applicant for employment by the City of Santa Barbara; provided, however, that the Personnel Director may disregard such conviction if it is found and determined by the Personnel Director that mitigating circumstances exist. In making such determination, the Personnel Director shall consider the following factors:

- (a) the classification, including its sensitivity, to which the person is applying or being certified and whether the classification is unrelated to the conviction;
- (b) the nature and seriousness of the offense;
- (c) the circumstances surrounding the conviction;
- (d) the length of time elapsed since the conviction;
- (e) the age of the person at the time of the conviction;
- (f) the presence or absence of rehabilitation or efforts at rehabilitation.

The Personnel Director shall give notice of disqualification to an applicant disqualified under this provision. Such notice shall be in writing and delivered personally or mailed to the applicant at the address shown on the application for employment. (Ord. 3910, 1977; Ord. 3376 §1, 1969; Ord. 3267 §1(part), 1968.)

### **3.16.070.5 Access to Criminal History Information.**

Pursuant to Section 11105 of the Penal Code of the State of California, the following officers of the City of Santa Barbara are hereby authorized to have access to and to utilize State summary criminal history information when it is needed to assist them in fulfilling employment duties set forth in this chapter: City Administrator, Director of Personnel and Risk Management, and his deputies, and legal counsel. (Ord. 3910, 1977; Ord. 3376, 1969; Ord. 3267, 1968.)

### **3.16.072 Inquiries Regarding Spouses and Relatives.**

A. **IMPERMISSIBLE INQUIRIES.** It is unlawful to ask an applicant for City employment to disclose his or her marital status as part of a pre-employment inquiry unless pursuant to a legally permissible inquiry.

B. **PERMISSIBLE INQUIRIES.** It is lawful to ask an applicant to state whether he or she has a spouse or relative who is presently employed by the City or whether he or she has ever used another name, but such information may not be used as a basis for an employment decision except as stated in City Charter Section 710 or Section 3.16.073 of this Code. (Ord. 4564, 1989.)

### **3.16.073 Employee Selection.**

A. **EMPLOYMENT OF SPOUSE AND RELATIVES.** An employment decision shall not be based on whether an individual has a spouse or relative presently employed by the City except in accordance with City Charter Section 710 and the following criteria:

1. For business reasons of supervision, safety, security or morale, the City Administrator, after consulting with the Personnel Officer and the department head, may refuse to place a spouse or relative under the direct supervision of the other spouse or a relative.
2. For business reasons of supervision, safety, security or morale, the City Administrator, after consulting with the Personnel Officer and the department head, may refuse to place both spouses (or two relatives) in the same department, division or facility if the work involves potential conflicts of interest or other hazards greater for married couples (or relatives) than for other persons.

**B. ACCOMMODATIONS FOR CITY EMPLOYEES WHO MARRY.** If two (2) City employees marry, the City Administrator shall make reasonable efforts to assign job duties so as to minimize problems of supervision, safety, security, or morale. If the City Administrator is unable to make an acceptable accommodation which sufficiently minimizes the problems of supervision, safety, security or morale, it may require the two City employees who have married to decide which one of the spouses will resign from City employment within 60 days of being notified of the City Administrator's inability to make a reasonable accommodation. (Ord. 4564, 1989.)

### **3.16.075 Physical Standards.**

The Board, with the recommendation of the Personnel Director, shall establish medical and physical standards for the various classes of positions in the classified service. Each person receiving an original appointment to a permanent position in the classified service shall be required to meet the medical and physical standards prescribed by the Board and shall be required to take a medical and physical examination, at no expense to the person, to determine whether or not he meets such standards; provided, however, that the Board may waive the requirement for such examination in the case of temporary employment. The Personnel Director shall designate the physician to make an examination. If the person is found by a designated physician not to meet the prescribed standards, his name shall be:

- (a) Withheld from placement on the employment list by the Personnel Director; or
- (b) Removed from the employment list by the Personnel Director; or
- (c) Withheld from certification by the Personnel Director.

In the event of employment in advance of medical and physical examination, a person found by a designated physician not to meet the prescribed standards shall be separated unless granted an adequate waiver.

The board may in the exercise of its discretion grant a waiver of medical and physical standards. Such waiver may be:

- (a) Permanent in nature in cases where a waiver of minor physical defects will clearly serve the interests of the City and such waiver is recommended by the examining physician and the Personnel Director, or
- (b) Temporary in nature, subject to the attainment of the required standards within such period of time and upon such conditions as may be prescribed by the Board. A person failing to comply with the terms of such temporary waiver shall be separated on order of the Personnel Director. (Ord. 3267 §1(part), 1968.)

### **3.16.080 Nature and Types of Examinations.**

The selection techniques used in the examination process shall be impartial, of a practical nature and shall relate to those subjects which, in the opinion of the Personnel Director and the department head, fairly measure the relative capacities of the class to which they seek to be appointed. Examination shall consist of selection techniques which will test fairly the qualifications of candidates such as, but not necessarily limited to achievement and aptitude tests, other written tests, personal interviews, performance tests, physical agility tests, evaluation of daily work performance, work samples, medical tests, or any combination of these or other tests. (Ord. 3267 §1(part), 1968.)

### **3.16.085 Pre-employment Information.**

In an examination for employment, the Personnel Director shall require as a prerequisite to such employment the taking of fingerprints of all applicants achieving a position on the employment list. The Personnel Director may make special inquiry into past records of all applicants and any other investigation deemed necessary. (Ord. 3267 §1(part), 1968.)

### **3.16.090 Promotional Examinations.**

Promotional examinations shall be conducted whenever the needs of the service require. Promotional examinations may include any of the selection techniques mentioned in Section 3.16.080 of this chapter, or any combination of them. Only City employees who meet the requirements set forth in the promotional examination announcements may compete in promotional examinations. (Ord. 3704 §1, 1974; Ord. 3267 §1(part), 1968.)

### **3.16.100 Continuous Examination.**

Open competitive examinations may be administered periodically for a single class as the needs of the service require. Names shall be placed on employment lists, and shall remain on such lists, as prescribed in Sections 3.16.140 to 3.16.170, inclusive. (Ord. 3267 §1(part), 1968.)

### **3.16.110 Conduct of Examination.**

The City Council may contract with any competent agency or individual for the preparing and/or administering of examinations. In the absence of such a contract, the Personnel Director shall insure that such duties are performed. The Personnel Director shall arrange for the use of public buildings and equipment for the conduct of examinations. (Ord. 3267 §1(part), 1968.)

### **3.16.120 Scoring Examinations and Qualifying Scores.**

A candidate's score in a given examination shall be the average of his scores on each competitive part of the examination, weighed as shown in the examination announcement. Failure in one (1) part of the examination may be grounds for declaring such applicants as failing in the entire examination or as disqualified for subsequent parts of an examination.

The Personnel Director may, at his discretion, include as a part of the examination, tests which are qualifying only. (Ord. 3267 §1(part), 1968.)

### **3.16.130 Notification of Examination Results.**

Each candidate in an examination shall be given written notice of the results thereof, and if successful, of his final earned score and/or rank on the employment list. (Ord. 3267 §1(part), 1968.)

### **3.16.140 Employment Lists.**

As soon as possible after the completion of an examination, the Personnel Director shall prepare and keep available an employment list consisting of the names of candidates who qualified in the examination, arranged in order of final scores, from the highest to the lowest qualifying score. (Ord. 3267 §1(part), 1968.)

### **3.16.150 Duration of Lists.**

The Personnel Director may extend an employment list for additional periods, but in no event shall an employment list remain in effect for more than two (2) years.

Promotional lists shall remain in effect for one (1) year unless sooner exhausted, open competitive lists shall remain in effect six (6) months unless sooner exhausted or extended, but in no event shall an employee list (open or promotional) remain in effect for more than two (2) years except that eligibles selected for acting positions from a specific eligibility list pursuant to Section 3.04.130, who have held that position for a period of not less than twelve (12) months, shall retain the same relative ranking on said list or any new list replacing said list.

Names placed on continuous lists shall be merged with any others already on the list in order of final scores and shall remain on the list for six (6) months if the eligible is not an employee, and shall remain on the list for one (1) year if the eligible is an employee. (Ord. 3838, 1976.)

### **3.16.155 Test Review.**

All candidates who take a written test (other than a form or standardized test) will be allowed to look at the key copy of the test for five (5) City Hall working days immediately following the date the written test was proctored.

A second review period will occur after candidates are notified of the results of the examination. After candidates receive notice that they did not qualify on a written test, they will have five (5) City Hall working days after receiving such notice to review the key copy and their own test paper. For purposes of this second review period, those who passed the written test will not be allowed to review the test nor to see their test paper until they have been notified of the final result of the entire examination.

Candidates may spend no more time reviewing the key copy and their test papers than half of the time that was allowed for the written test. (Ord. 3525 §3, 1972.)

### **3.16.160 Reinstatement Lists.**

The names of probationary and permanent employees who have been laid off shall be placed on appropriate reinstatement lists, as provided in Section 1008 of the Charter. (Ord. 3925 §3, 1977; Ord. 3267 §1(part), 1968.)

### **3.16.170 Removal of Names from List.**

The name of any person appearing on an employment, reinstatement, or promotional list shall be removed by the Personnel Director, if the eligible person requests that his name be removed and the request is confirmed in writing by the eligible person or the Personnel Department, or if he fails to respond to a notice of certification mailed to his last known address, or for any of the reasons specified in Section 3.16.070 of this chapter. The person affected shall be notified of the removal of his name by a notice mailed to his last known address. The names of persons on promotional employment lists who resign from the service shall automatically be dropped from such lists. (Ord. 3956 §1, 1978; Ord. 3838, 1976.)

### **3.16.175 Inactive List.**

Notwithstanding the provisions of Section 3.16.170 of this chapter the name of an eligible who is not available for immediate certification may, upon request in writing to the Personnel Director, be placed on an inactive list, and may be restored to the active list from which it was removed upon request of the eligible provided the list is still in existence. (Ord. 3267 §1(part), 1968.)

### **3.16.180 Types of Appointment.**

All vacancies in the classified service shall be filled by transfer, demotion, re-employment, reinstatement, or from eligibles certified by the Personnel Director from an appropriate employment list, if available. In the absence of persons eligible for appointment in these ways, provisional appointments may be made in accordance with this chapter. (Ord. 3267 §1(part), 1968.)

### **3.16.190 Notice to Personnel Director.**

Whenever a vacancy in the classified service is to be filled, the appointing power shall notify the Personnel Director in the manner prescribed. If there is no reinstatement list available for the class, the appointing power shall have the right to decide whether to fill the vacancy by re-employment, transfer, demotion, appointment from a promotional employment list, or appointment from an open employment list. (Ord. 3956 §2, 1978; Ord. 3267 §1(part), 1968.)

### **3.16.200 Certification of Eligibles.**

If it is not possible to fill a vacancy by reinstatement, the appointing power may fill such vacancy by re-employment, transfer, or demotion, or by certification from an appropriate employment list, provided that eligibles are available.

When the appointing power requests a vacancy be filled by appointment from a promotional employment list or from an open employment list, the Human Resources Manager shall certify to the appointing authority, in alphabetical order, the names (according to final score) of nine (9) more eligibles (including tie scores) than the number of vacancies.

In the case of Fire Inspector I, the Human Resources Manager shall certify from either a promotional employment list or from an open employment list, in alphabetical order, the names (according to final score) of nineteen (19) more eligibles (including tie scores) than the number of vacancies.

In the case of Firefighter and Police Officer, the Human Resources Manager shall certify from either a promotional employment list or from an open employment list, the names of all eligibles in final score order.

For the positions of Fire Engineer, Fire Captain, Fire Inspector II and Fire Inspector III, the Human Resources Manager shall certify to the appointing authority, in alphabetical order, the names of four (4) more eligibles (including tie scores) than the number of vacancies.

Any eligible whose name is certified three (3) times to an appointing power, and has not been appointed, may be removed from the eligible list at the discretion of the Human Resources Manager. Whenever there are fewer than three (3) names of individuals willing to accept appointment on a promotion employment list or on an open employment list, the appointing power may make an appointment from among such eligibles or may request the Human Resources Manager to establish a new list. When so requested the Human Resources Manager shall hold a new examination and establish a new employment list.

Those persons whose names are placed on an eligible list by reasons of transfer, reinstatement, or by virtue of being on another eligible list which is at a higher salary range and for which the qualifications are substantially similar, shall be certified at the request of the appointing authority in addition to the names certified from the appropriate employment list, except vacancies in the Treatment and Patrol bargaining unit shall not be filled from eligibles placed on the certification list by virtue of being on another eligible list which is at a higher salary range and for which the qualifications are substantially similar. Such additional names shall have no rank or standing on the eligible list. (Ord. 5346, 2005; Ord. 5176, 2001; Ord. 5174, 2001; Ord. 5066, 1998; Ord. 4578, 1989; Ord. 4462, 1987; Ord. 3956 §3, 1978; Ord. 3525 §4, 1972.)

### **3.16.210 Appointment.**

After interview and investigation, the appointing power shall make appointments from among those certified, and shall immediately notify the Personnel Director of the persons appointed. The person accepting appointment shall present himself to the Personnel Director, or his designated representative, for processing on or before the date of appointment. If the applicant accepts the appointment and presents himself for duty within such period of time as the appointing power shall prescribe he shall be deemed to be appointed, otherwise, he shall be deemed to have declined the appointment. (Ord. 3267 §1(part), 1968.)

### **3.16.220 Provisional Appointment.**

When there are less than three (3) individuals willing to accept appointment on appropriate employment lists, a provisional appointment may be made by the appointing power of a person meeting the minimum training and experience qualifications for the position. An employment list shall be established within six (6) months for any permanent position filled by provisional appointment. The City Administrator, with the approval of the City Council, may extend the period for any provisional appointment for not more than thirty (30) days by any one action. When a provisional appointment is to be extended the City Council shall direct the City Clerk to record such action in the minutes of the meeting of the Council.

No special credit shall be allowed in meeting any qualification or in the giving of any test or the establishment of any open competitive promotional lists, for service rendered under a provisional appointment.

A provisional employee may be removed at any time without the right of appeal or hearing. (Ord. 3267 §1(part), 1968.)

### **3.16.230 Appointment Pending Suspension or Period of Review.**

During the period of suspension of an employee or pending final action or proceedings to review suspension, demotion or discharge of an employee, such vacancy may be filled by the appointing power subject to the provisions of this chapter and the Charter. (Ord. 3267 §1(part), 1968.)

### **3.16.240 Regular Appointment Following Probationary Period.**

All original and promotional appointments shall be tentative and subject to a probationary period of one (1) year of actual service. If the service of the probationary employee has been satisfactory to the appointing power, then the appointing power shall file with the Personnel Director a statement in writing to such effect and stating that the retention of such employee in the service is desired. If such a statement is not filed (prior to the expiration of the probationary period) the employee will be deemed to be unsatisfactory and his employment terminated at the expiration of the probationary period. (Ord. 3267 §1(part), 1968.)

### **3.16.250 Objective of Probationary Period.**

The probationary period shall be regarded as a part of the testing process and shall be utilized for closely observing the employee's work and for securing the most effective adjustment of a new employee to this position. (Ord. 3267 §1(part), 1968.)

### **3.16.260 Rejection of Probationer.**

During the probationary period, an employee may be rejected at any time by the appointing power without cause and without the right of appeal. Notification of rejection in writing shall be served on the probationer and a copy filed with the Personnel Director. A rejected probationer must make a request in writing to the Personnel Director within fifteen (15) days to be returned to the eligible list, as provided in Section 1004 of the Charter. (Ord. 3267 §1(part), 1968.)

### **3.16.270 Rejection Following Promotion.**

Any employee rejected during the probationary period following a promotional appointment, or at the conclusion of the probationary period by reason of failure of the appointing power to file a statement that his services have been satisfactory, shall be reinstated to the position from which he was promoted unless charges are filed and he is discharged in the manner provided in this chapter and in the Charter. (Ord. 3267 §1(part), 1968.)

### **3.16.280 Transfer.**

No person shall be transferred to a position for which he does not possess the minimum qualifications. Upon notice to the Personnel Director, an employee may be transferred by the appointing power at any time from one position to another position in a comparable class. For transfer purposes, a comparable class is one with the same maximum salary, involves the performance of similar duties and requires substantially the same basic qualifications.

If the transfer involves a change from one department to another, both department heads must consent thereto unless the City Administrator orders the transfer for purposes of economy or efficiency. Transfer shall not be used to effectuate a promotion, demotion, advancement or reduction, each of which may be accomplished only as provided in this chapter and the Charter. (Ord. 3267 §1(part), 1968.)

### **3.16.290 Promotion.**

Insofar as consistent with the best interests of the service, all vacancies in the classified service shall be filled by promotion from within the classified service, after a promotional or open competitive examination has been given and an employment list established. (Ord. 3425 §4, 1970; Ord. 3267 §1(part), 1968.)

### **3.16.300 Demotion.**

The appointing power may demote a permanent employee for any ground authorized by Section 1007 of the Charter. Upon request of the employee, and with the consent of the appointing power, demotion may be made to a vacant position. No employee shall be demoted to a position for which he does not possess the minimum qualifications. Written notice of the demotion shall be given the employee before or within three (3) days after the effective date of the demotion, and a copy filed with the Personnel Director. (Ord. 3267 §1(part), 1968.)

### **3.16.310 Suspension.**

The appointing power may suspend a permanent employee from his position at any time for grounds specified in Section 1007 of the Charter. Written notice of the suspension shall be given the employee before or within three (3) days after the effective date of the suspension, and a copy filed with the Personnel Director. Suspension without pay shall not exceed sixty (60) calendar days, during any continuous twelve (12) month period; provided, however, that an employee may be suspended for a period of time in excess of sixty (60) days pending a court determination of criminal charges brought against such employee. (Ord. 3267 §1(part), 1968.)

### **3.16.320 Re-employment.**

With the approval of the appointing power and the Personnel Director, a permanent or probationary employee who has resigned with a good record may be re-employed within one (1) year of the effective date of resignation, to a vacant position in the same, comparable, or lower related class for which the qualifications are substantially similar or less than those qualifications for the position from which the employee resigned. The Personnel Director shall determine whether or not the employee meets the qualifications for a comparable or lower related class as set forth on the appropriate job description. (Ord. 3925 §3, 1977; Ord. 3267 §1(part), 1968.)

### **3.16.330 Disability.**

The appointing power may require an employee or a prospective employee to submit to medical, physical, or psychiatric examination(s), to be paid for by the City, to evaluate the capacity of the employee to perform the work of his position. The employee may submit medical or other evidence to the examining physician or to the appointing power. When the appointing power, after considering the conclusions of the medical, physical and psychiatric examination(s) and other pertinent information, concludes that the employee is unable to perform the work of his present position, the appointing power may demote or transfer the employee to another position or may terminate the employment of the employee. The employee may appeal an action of demotion, transfer or dismissal taken under this section, to the Board of Civil Service Commissioners. The proceedings specified in Section 1007 of the Charter shall govern any such appeal. (Ord. 3525 §5, 1972; Ord. 3267 §1(part), 1968.)

### **3.16.340 Discharge.**

A permanent employee in the classified service may be discharged at any time by the appointing power for grounds specified in Section 1007 of the Charter. Whenever it is the intention of the appointing power to discharge an employee in the classified service, the Personnel Director shall be notified. Any employee who has been discharged shall be entitled to receive a written statement of the reasons for such action and to a hearing if he so requests, as provided in this chapter and the Charter. (Ord. 3267 §1(part), 1968.)

### **3.16.350 Lay-off.**

An employee may be laid off in accordance with provisions of Section 1008 of the Charter. In reducing personnel and laying off any employee in the classified service through the abolition of his position, the City Council shall observe the seniority rule by department, by classification and by total time with the City.

In the case of the larger departments of Community Development and Public Works the seniority rule by division, by classification and by total time with the City shall be observed.

Any employee laid off will not necessarily move to a lower related classification unless there is a vacancy. Every effort will be made to place employees affected in other City positions, and inter--departmental transfers will take place whenever possible. An appointing authority, however, will retain the right not to appoint an employee laid off from another department than his own.

In accordance with the provisions of the City Charter, any employee laid off shall have return rights to the position from which he was laid off for a period of two (2) years, if such position is reinstated in the classified service. The Personnel Department shall retain the names of those employees laid off, and shall notify such employees by registered mail if the position is reinstated within the two (2) year period. Upon receipt of the notice by registered mail the employee shall have ninety (90) days within which he may accept or reject the offer of reinstatement. If the offer of reinstatement is accepted, such employee shall be rehired at the same salary step he was in at the time of being laid off. If the offer of reinstatement is rejected, the employee shall be considered to have waived his rights to reinstatement, and his name shall be removed from the reinstatement list. (Ord. 3925 §3, 1977; Ord. 3820, 1976; Ord. 3525, 1972.)

### **3.16.360 Right of Appeal.**

In accordance with the provisions of Section 3.16.370 of this chapter, any employee in the classified service shall have the right of appeal on any decision which affects the employment of the individual employee. This right of appeal shall not apply to matters which affect all employees equally, in part or whole, or those matters necessary for the operation of the department nor those for which appeal is provided by Sections 3.16.300 through 3.16.350 inclusive, and Section 1007 of the Charter. (Ord. 3267 §1(part), 1968.)

### **3.16.365 Pre-discipline Procedures.**

Prior to the discharge, demotion, or suspension of any permanent employee in the classified service pursuant to provisions of the City Charter and this Code, the following procedures shall be complied with:

(1) Written notice of the proposed disciplinary action shall be given to the employee. Such notice shall include a statement of the reason(s) for the proposed action and the charge(s) being considered.

(2) The employee shall be given an opportunity to review the documents or materials upon which the proposed disciplinary action is based, and, if practicable, he shall be supplied with a copy of the documents.

(3) Within five (5) working days after the employee has had the review opportunity provided above, he shall have the right to respond, orally or in writing, or both, at his option, to the appointing authority concerning the proposed action.

Notwithstanding the provisions of this section, upon the recommendation of the Personnel Director, the City Administrator may approve the temporary assignment of an employee to a status of leave with pay pending conduct or completion of such investigations or hearings as may be required to determine if disciplinary action is to be taken. (Ord. 3830, 1976.)

### **3.16.370 Settling Grievances.**

Any employee who has a grievance shall first try to get it settled through discussion with his immediate supervisor without undue delay. Every effort shall be made to find an acceptable solution at the lowest possible level of supervision.

If after such discussion the employee does not believe the grievance has been satisfactorily resolved, he may file a formal appeal in writing to his department head within ten (10) calendar days after receiving the informal decision of his immediate supervisor.

The department head receiving the formal appeal shall render his written decision and comment to the employee within ten (10) calendar days after receiving the appeal.

If after receipt of the written decision of the department head the employee is still dissatisfied he may appeal the decision of the department head to the City Administrator. Such appeal shall be made by filing a written appeal to the City Administrator within five (5) days after receipt of the written decision of the department head. The City Administrator shall review the decision of the department head, and his decision, which shall be rendered within fifteen (15) days after the appeal is made, shall be final. The City Administrator may request the advice of the Board in any grievance proceeding, but he shall not be bound to follow any recommendation of the Board. (Ord. 3267 §1(part), 1968.)

### **3.16.380 Extension of Time Limits.**

The time limits specified in Section 3.16.370 may be extended to a definite date by mutual agreement of the employee and the reviewer concerned.

Employees shall be assured freedom from reprisal for using the grievance procedure. (Ord. 3267 §1(part), 1968.)

### **3.16.390 Resignation.**

An employee wishing to leave the classified service in good standing shall file with the appointing power, a written resignation stating the effective date and reasons for leaving at least two (2) weeks before leaving the service, unless such time limit is waived by such official. A statement as to the resigned employee's service performance and other pertinent information shall be forwarded to the Personnel Director. Failure to give notice as required by this section may be cause for denying future employment by the City, as well as cause for denial of unused accrued vacation time as provided in Section 3.08.080 of the Santa Barbara Municipal Code. (Ord. 3267 §1(part), 1968.)



### **3.16.400 Retirement for Age.**

The mandatory retirement age for City employees who are members of the Public Employee's Retirement System shall be as specified in the Public Employee's Retirement Law. The retirement of members of the pension system provided for in Article XV-A of the preceding Charter of the City shall be as provided in said Article XV-A. (Ord. 3267 §1(part), 1968.)

### **3.16.410 Existing Rules.**

All rules and regulations relating to City personnel or to the personnel of particular departments in the City which are not in conflict with this chapter or the Charter shall remain in full force and effect. (Ord. 3267 §1(part), 1968.)

### **3.16.420 Subpoena Power of the Board.**

The Board shall have the power and authority to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Subpoenas shall be issued in the name of the City and be attested by the City Clerk. They shall be served and complied with in the same manner as subpoenas in civil actions. Disobedience of such subpoenas, or the refusal to testify (upon other than constitutional grounds), constitutes a misdemeanor, and shall be punishable as provided by Section 515 of the Charter. (Ord. 3267 §1(part), 1968.)

### **3.16.430 Effective Date of System.**

The Civil Service System of the City shall be deemed to have commenced on the effective date of the Charter of the City. (Ord. 3267 §1(part), 1968.)

### **3.16.440 Hearing Procedures.**

(a) Right to a Hearing. Any person entitled to a hearing before the Board of Civil Service Commissioners under Section 1007 and Section 808(d) of the Charter or this chapter may petition for a hearing before the Board.

(b) Petition for Hearing. Such petition shall be in writing, signed by the petitioner or his representative, giving his mailing address, the action which he appeals, and shall detail the facts upon which his case is based. A general denial of the allegations contained in the Statement of Charges furnished petitioner pursuant to Section 1007 of the Charter shall be deemed an adequate statement of the required facts and reasons.

(c) Time Within Which Petition Must Be Filed. A petition for hearing must be filed with the City Clerk for delivery to the Board of Civil Service Commissioners within ten (10) days of receipt of the Statement of Charges by the petitioner. The Board may extend the time or grant a hearing where the petition is filed after said ten (10) day period, where good cause is shown, and it is shown that other parties are not likely to suffer substantial hardship from the delay.

(d) Hearing Board. On receiving a petition which complies with the foregoing rule, the Board shall determine whether the matter will be heard before the entire Board or by three (3) or more members of the Board as designated by the chairman.

The term "Hearing Board" as used in this chapter shall mean the Board of Civil Service Commissioners, or those members thereof named or appointed under this section to hear any appeal.

(e) Hearing Officer. For all hearings on the discharge, suspension, or demotion of a City employee, a hearing officer shall be appointed. The hearing officer shall be an attorney admitted to practice in the State of California. The hearing officer shall preside at the hearing, rule on the admission and exclusion of evidence, and advise the Hearing Board on matters of law.

(f) Notice. The Hearing Board shall set the matter for hearing and shall give petitioner at least ten (10) days' notice in writing of the date and place of such hearing. In hearings in which an action of a department or division head is at issue similar notice shall be given to the department head.

(g) Evidence. The following evidentiary rules shall apply to hearings conducted under this section:

(1) Oral evidence shall be taken only under oath.

(2) Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination, to impeach any witness regardless of which party first called him to testify, and to rebut the evidence against him. If petitioner does not testify in his own behalf he may be called and examined as if under cross-examination.

(3) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common-law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded.

(h) Burden of Proof. In hearings on discharges, reductions, or suspensions, the burden of proof shall be on the appointing power. In all other types of hearings the burden of proof shall be on the petitioner.

(i) Exclusion of Witnesses. The Board may at its discretion exclude witnesses not under examination, except the Personnel Director, the petitioner or person to be discharged or reduced, the appointing power and counsel.

(j) Appearance of Petitioner. The appearance of the petitioner shall be required at all hearings, provided, however, the Hearing Board shall have discretion to consent to the absence of the petitioner upon a showing of good cause therefor.

Unexcused absence of the petitioner at such a hearing may, in the discretion of the Hearing Board, be deemed a withdrawal of the petition and consent to the action or ruling from which the appeal was taken.

(k) Findings and Decision. If the hearing, as hereinbefore described, is not before the full Board, the Hearing Board shall submit a written or oral report to the full Board for its approval. If the Board accepts such report, it need not read the record of the hearing. If the Board declines to accept such report, it must read the record or hold a hearing de novo.

The Board may either adopt the report made by the Hearing Board and reduce the same to writing to serve as findings, or it may draft its own findings. The findings shall not be signed by the Board until five (5) business days after they have been posted to the petitioner. Notice of the decision and findings of fact and conclusions of law shall be mailed promptly to the petitioner. The petitioner shall have five (5) business days after the Board mails the findings of fact and conclusions of law to object in writing to said findings of fact and conclusions of law.

If objections to the findings are filed with the Board within the time specified above and the Board believes that the objections or parts thereof have validity, then the Board may amend said findings, or take such further action as it deems appropriate.

If no objection to said findings and conclusions is received by the Board within said five (5) business days, the findings and conclusions and decision shall be final and conclusive.

(l) Report of Hearings. Hearings on discharges, reductions, and suspensions shall be conducted with a stenographic reporter and whenever possible a mechanical recording machine.

(m) Transcripts of Hearings. Transcripts of hearings shall be furnished to any person on payment of the cost of preparing such transcripts.

(n) Continuances. The Hearing Board may grant a continuance of any hearing upon such terms and conditions as it may deem proper, including in its discretion the condition that the petitioner shall be deemed to have waived salary for the period of the continuance, if the continuance is at the petitioner's request. Any request for continuance made less than twenty-four (24) hours prior to the time set for the hearing will be denied unless good cause is shown for the continuance.

(o) Class Actions. The Board may, at its discretion, grant to any two (2) or more persons whose appeals are heard pursuant to this chapter, or to the appointing power, the right to consolidate such appeals as a class action.

The granting of authority for such class action shall be contingent upon showing by petitioners or their representatives or by the appointing power that the appeals in question present common questions of fact and law, and the separate hearings upon such appeals would result in unnecessary multiplicity of hearings before the Board of its appointed hearing officers.

Any petitioner who would otherwise be included in a proposed class action hearing shall have the right to appear before the Board and request that his appeal be heard separately from appeals involved in the class action. Such request must be filed with the City Clerk not less than five (5) days prior to the date set for the consolidated hearing and may be denied by the Board if it determines that good cause does not exist for holding a separate hearing. (Ord. 3713 §1, 1974.)

### **3.16.450 Investigations.**

(a) Authority. Pursuant to Section 808(c) of the Charter the Board shall have the power, upon request of the City Council or upon its own motion, to make investigations concerning the administration of personnel or conditions of employment in the municipal service and report its findings to the City Council and City Administrator.

(b) Procedures. When an investigation is initiated, either by City Council request or by the Board's own motion, the Board shall initially take the following actions:

1. Direct the Personnel Director to investigate the matter and report his findings to the Board; or
2. Direct one (1) or two (2) of its members to investigate the matter and report their findings to the full Board.

Except as provided hereafter, the Board shall accept the findings of either of the above and forward it to the City Council and the City Administrator. In the event that the report received by the Board from either of the above is determined by the Board to be incomplete or unsatisfactory, the Board as a whole may conduct its own investigation and forward its findings to the City Council and the City Administrator. (Ord. 3713 §1, 1974.)

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